

SECRETARY KEMP: We will bring this, Thursday, February 24th, State Election Board Meeting to order. I would like to welcome everyone this morning. We will have a few comments here in just a second; but, first, I wanted to call on Mr. Tex McIver to do the invocation. And then he will lead us in the pledge.

MR. MCIVER: Please bow your heads in prayer.

(INVOCATION)

(PLEDGE)

SECRETARY KEMP: Thank you, Mr. McIver. And Let me just welcome everyone here today to the State Election Board Meeting. One of my priorities, as Secretary of State, was to try to have a few of our State Election Board Meetings in different areas around the State instead of just having them in Atlanta, where the press, we could be available to different media markets and press opportunities and also to different parts of our citizenry across the state, to let them know what we do here at the State Elections Board and how seriously we take what we do. We have got a very hard-working board that spend as lot of time and a lot of effort for no money, basically, to make sure we have secure elections in Georgia and do our best to stop voter fraud. That certainly has been a mission of mine. And that is something that I appreciate the board's input on. I will introduce everybody real quick. We've got Mr. Kent Webb on my far right. Mr. Tex McIver, who lead us in the invocation and pledge and then Mr. Randy Evans on my left. David Worley also serves on this board and had a conflict that came up late yesterday and could not be with us today. But we do want to welcome you. This is a meeting where we want to hear from everyone that has something to say in regards to either public comment or the cases that were taken up. So, if there is something on your mind, we want to hear your side of the story and hear your thoughts. So don't be bashful about that. We do have time limits that we are restricted to, to keep our meeting moving along. So we hope you will adhere to those, as well. I did also want to remind you again, if you come to the podium to speak, just please give us your name and your address. Speak clearly and deliberately, so we can make sure your comments are recorded correctly. Also, they cases are presented by the Secretary of State's Investigative Division before the board. They are for probable cause determination only. There is no decision will be made today, whether an election code violation has occurred or what sanctions apply. The board may also vote to refer your case to the Attorney General's Office for further investigation or for administrative prosecution. If the Board does vote to refer your case to the Attorney General's Office, you should contact Ms. Ann Brumbaugh, who is over here waiving her hand. She will be glad to work with you as the process goes further. A couple of housekeeping things that I want to do today: We have got some relatively new folks with us. As y'all know Wes Taylor was the past Elections Division Director for us. He did a great job with our elections and with the State Election Board. He actually got appointed to state court judgeship in Fulton County. I had named Ms. Ann Hicks Election Director. Ann has been Secretary of State's office for over 30 years and has just done a great job. She is going to be unfortunately retiring here within the next year, but she has

agreed to serve as our Elections Director while we are figuring out what we want to do for the long-term future. Ann has been a great person that counties have relied on for years in our elections division and we are excited about the leadership she is providing and we are glad to have her with us today. Mr. Taylor actually took Rhonda Brown with him to Fulton County State Court when he left, who used to kind of run our State Elections Board meetings and do many other things in the office. She was a great employee of our office. We wish her well, and she has got a great opportunity with the Judge Taylor. But Jessica Monk is now working with the State Elections Board and is doing a great job. We are glad to have Jessica with us today. She has not had the opportunity, until today, to meet some of our board members. I want to make sure everyone knew who Jessica was. With that I do want to take one other moment of personal privilege, if you will, and honor one of our board members today. Randy Evans has been serving on the State Elections Board for many, many years. He has imposed, as he said he would do, his individual term limits, unlike a lot of politicians do. And has decided to step down from the board. We just wanted to thank Randy today for his work. He has been the representative of the Republican Party, for those of you who don't know, the Democratic Party and the Republican Party each have appointment to this Board and then the Speaker of the House and the Lieutenant Governor have an appointment and then the Secretary of State serves as the chairman. Randy has served the Republican Party well, on the board, but he has also served the State of Georgia well. I think everyone that has been to our meetings over the years, even Mr. Worley, who is Democratic representative, who is not here today, would agree that there is no favoritism on this Board. We follow the law. Randy has been staunch supporter of that in making sure that people were treated fairly, but also treated within the law, but made sure that our elections were securer today than what he got here. I can assure you of that. I have had the privilege of working with him on this Board for the last year. I have actually seen him in the action over the last two years. I can't thank him enough for his service to our state, being on this Board. It is a time-consuming job. I think all you can get a per diem for travel which I don't think he has ever taken. We just wanted to say thank you, Mr. Evans. We have got a few things that we wanted to present to you today. While we are doing that, I want to see if Mr. McIver had any comments for you. We have got a resolution that we wanted to present on behalf of the board thanking Mr. Evans for his service to the state. That is the first thing I want to do. And then the second thing, we have a tradition in the secretary of state's office to name and honor outstanding Georgians for the work they do in different areas and I personally wanted to do this for Mr. Evans and just thank you again for your service.

(APPLAUSE)

SECRETARY KEMP: Let me see if Mr. McIver or Mr. Webb would like to make a comment, and then I would like to hear from Mr. Evans.

MR. WEBB: I'll go first. I have been the shortest-serving member of the Board. But from the minute I join Mr. Evans has been a great teacher and helping to bring me along and to, kind of, show me the ropes and provide the history of the prior cases. He has been just an amazing leader in the state elections and has just done a

terrific job of being fair, getting to the point and holding people accountable and responsible and really setting a high bar for the rest of us. I appreciate all the support and your welcoming that you gave me and thank you for your service.

SECRETARY KEMP: Thank you Mr. Webb. Mr. McIver.

MR. MCIVER: There isn't much that hasn't already been said about my colleague Randy Evans. He is an extraordinarily fine lawyer. He is an excellent Georgian. He has contributed greatly to this state and, certainly, to this board. I believe he has served under four secretaries, if I remember correctly, beginning with Secretary Cleland and coming forward to now, Secretary Kemp. Without his guidance and understand of the law, what we do here would be much, much, more difficult. I am one that is truly worried about having his loss on the Board and the experience that he has brought to this process; but nonetheless, not enough can be said in that regard for what Randy has done for all of us in the election process. I can attest to the fact that he has never sought reimbursement for a single dime for all the expense that he has had personally. So, all of this has been at his own personal contribution, and I assume his law firm going to be happy to have him back, so they can get more of his time, which is considerably valuable. Randy, it has been a real pleasure for me. I am going to miss you greatly. And I hope you will come around and see us on occasionally.

MR. EVANS: Thank you. And I want to thank all of you. I will say, without hesitation, it has been a great honor. I view, as you all know, serving the people of State of Georgia as the highest honor that you could possibly have. Everybody has to hold themselves out in a way where you command respect for the position you do by the way you do your job. I would be remiss if I did not thank the two of the most important people who made today possible. That is my mother and father, who are back here in the back row: Mom and Dad. As You guys know, I often proudly proclaim my roots in Dublin and Warner Robins, which is where I grew up. I think it's always important that you never forget where you came from. I want to thank and Ralph Reed, who appointed me for the first time and then Ally (unclear) and Sue Everhart, who were kind enough to let me continue. I have served as Tex knows, with many Secretaries of State. I can say that without equivocation. We now have the best Secretary of State that I have ever worked with. He has attention to detail, the importance of fairness of hearing what people have to say and getting to the right result should be lost on no one. That is a very high standard that he sets and a very high standard that he meets. I too will miss Tex. Tex and I went through, just a worse. For those of you don't remember we had photo ID, and we were in court all the time. We were being named in lawsuits. I will tell you that may think that lawyers get used to lawsuits, but you never get used to lawsuits when your name is on the other side of the V. But it's been great and the staff has been wonderful. The staff that we have assembled is probably a reflection of how good the staff has been. That is we have had two who have gone off to be judges. Those judges took folk with them who now serve in the judiciary, and we have many others who serve in very prominent positions in our state government and the national government. If you want to look at a good high school team or a good college football team, look at

how many play in the NFL. That is where the talent goes, and you can see that's what happened here. I would be remiss if I didn't say that I continue to have reservations about audit trails for voting. I have said this -- I think those who were here the first day -- I do think there will come a close election one day where we will have to address that issue. We have to always be mindful of that, because as we see revolutions go around the world, whether it's Egypt or Libya or Bahrain the things that separates us, is that we vest the peaceful transition of power in the ballot box. And the net result of that is the ballot box has to be accurate, reliable and verifiable. Because if the confidence is ever lost in that one thing, then we are only left with following the path of other countries who do it in far more violent, and a much more chaotic and autocratic way. That leads me to my last point, which is, as proud as I am of serving on this Board and serving with you, Mr. Secretary, for the great work you've done, and, certainly, Tex has been here with me and Kent, who I have actually learned from him as much as he has learned from me -- he has such grace and style, but always get to the point and to many colleague, Mr. Worley, he and I voted together 85 percent of the time. So this idea that partisan can't agree is kind of belied by the statistics. As I am honored of all that, I most honor to be an American and I very proud of it. And I Thank you all for being here. Thank you.

(APPLAUSE)

SECRETARY KEMP: Thank you, so much, Mr. Evans, again, for your dedication and hard work. And now that we have honored you, we are expecting you to work just as hard in the rest of this meeting as you always have. With that we go into our public-comment period. If you have submitted a card we are fixing to call you up to the podium. Again, if you will just submit, when you first get there, your name and your address for the record. And then you will have two minutes to make public comment. First, we have David Galilee. Welcome. Glad to have you today.

MR. GALILEE: Mr. Secretary, members of the board, I am David M. Galilee. I'm a 10-year commissioner with Chatham County. I have -- it's important for me to say this: that I've got 40 years in law enforcement, 30 years in American Chief of Police, 20 years as Chief Police in Savannah. And during that time I have written articles and policies and procedures on criminal investigation. I say that because, what I'm about to say, I want you to know is not my opinion. It is my professional opinion. This is the third time that Commissioner Stone and myself have been before this Board. And I know you have got a lot of cases. I just want you to know this particular case involved a hundred forgeries on a petition. And it's been thoroughly investigated by your office. It's been passed on. The problem is -- Secretary Kemp, we are real impressed with your dedication to voter fraud. This would be the ultimate in voter fraud. These are 100 forgeries, probably more than 100 forged signatures on a petition, include two dead people, including a major on the Chatham County Sheriff's Office, including a number of prominent attorneys and citizens that had their names signed. The purpose of that was this person was getting \$3 a signature. That is my personal opinion is that he just sat down at the kitchen table

had a voter's list and just wrote out all those signatures. My problem with our process in Georgia -- I point out I was also the Chief of Police in the Chicago area. Chicago is famous for voter problems. But the difference is, in Chicago this case would have been disposed of in 90 days. We are talking about this case that happened in August of 2008. And we are still talking about it. It seems like it gets passed from desk to desk to desk and nothing happens. Commissioner Stone and I spent two times before this board. It was thoroughly investigated, re-investigated, and it was decided by the Board that it should be referred to the Attorney General's Office. And it was. The Attorney General's Office referred it to our district attorney. The problem is our district attorney, through no fault of his own, no disparage or remarks, but he had hired this same person that forged these signatures for his campaign. So he excused himself. He passed it on to a special prosecutor in Atlanta, that I am not sure how that work -- no disrespect to this prosecution, but he, obviously, lives in La La Land, because he didn't feel like there was anything to pursue. The reason --

SECRETARY KEMP: Commissioner, if you can, wrap up. Your time is up.

MR. GALILEE: I just feel that, number one, Mr. Secretary, something this important, we need to, at some point in time, have something other than give someone two minutes and sit down get out of here type thing. Justice was not carried out. We are here to appeal that you do something this time, not just past it on to another desk.

SECRETARY KEMP: Commissioner Stone, welcome.

MS. STONE: Good Morning, Mr. Secretary of State. I appreciated the opportunity to be her today. I think Commissioner Gellatly has given you a little bit of information. I am going to give you a little bit more.

SECRETARY KEMP: Give us your name and address for the record.

MS. STONE: I'm Helen Stone, County Commissioner for Chatham County. Mr. Secretary of State, I did noticed on your letterhead it says stop voter fraud. I can't tell you how much that means to me. We have, as Commissioner Galilee said before, been working on this since 2008. What we don't understand is that these petitions that were circulated that had forgeries on them, on the back of each of these petitions -- I am just going to read to you, very briefly, what it says. I, the undersigned, being duly sworn, on oath, to dispose and say that I personally circulated the foregoing petition sheet, that I reside at the address appearing below my signature, hereon that each signer manually signed his or her own name on this sheet with full knowledge of the contents of such petition. How do you get a dead person on here? I got the signature of a dead person. Our elections board flagged it as deceased. Also, in the Code, in the Georgia Code, it says, insert or permits to be inserted any fictitious name, false figure, false statement or other fraudulent entry on, or any registration card, electors' list, voter certificate, affidavit, tally paper, general or duplicate return of any statement, certificate oath, voucher, valid or valid card or

other record or document authorized or required to be made, used, signed returned or preserved for any public purpose in connection with a primary or -- with any primary or election. It says that this is a felony. This is an affidavit. It's signed. It's notarized. There is a person that carried these signatures that says they got them the correct way. I don't understand what the problem is. I just thank you for your time and I appreciate very deeply all the efforts that you all have made on this case. I just hope we can get it resolved.

SECRETARY KEMP: Thank you, Ms. Stone. We look forward to seeing you all in Savannah, at our next State Election Board Meeting. We will be having that in Savannah.

MS. STONE: Maybe we will come to a conclusion by then. Thank you, sir, and thank you all for your time.

SECRETARY KEMP: Cynthia Moffett. If Mr. Bell and Ms. Anderson will make their way to reserve seats we would appreciate it. State your name and address for the record. Thank you. Welcome.

MS. MOFFETT: My name is Cynthia Moffett. My address is 5676 Iron Stone Drive, Columbus, Georgia. Thank you, so very much, for allowing me the opportunity to speak to you. I am here because of an incident that happened at my polling station on July the 20th, 2010. I am accompanied by my mother and what I will be speaking about has a lot to do with her. It is important. This is important because, as a tax payer and citizen the election board in Columbus has sent mix messages regarding who can and cannot vote. It is due to this confusion that caused the unfortunate incident on July 20th. As a 20-year air force veteran who presently serves as chaplain at St. Francis hospital in Columbus, Georgia, and my mother who served this community as a registered at Martin Army Hospital for over 20 years, our intention was never to violate any voting laws. But, at the same time, I am concerned that my mother's rights and perhaps the rights of others like her have been violated. I see it this way because the treatment has been totally antithetical to the treatment my mother has received in the past. The only way to resolve this issue is if both parties can be totally honest. Allegations made by the Columbus voting board have offered statements that are inconsistent and not true. When I filed my verbal complaint with the local board I insisted I had a written statement. Their statements indicated they were hearing my complaint for the first time. They made such statements as, why didn't she call me?

SECRETARY KEMP: Ms. Moffett, your time is up. This is one of our cases today. So we can hear from you later, as well.

MS. MOFFETT: Okay.

SECRETARY KEMP: Mr. Bell.

MR. BELL: Good morning. My name is James Bell. I'm from Douglas County, Georgia. I live in Lithia Springs. I am a voter in Douglas County. Mr. Evans, I

would like to applaud you for your comments concerning the verifiable ballots. I hope that sooner, not later, that the State of Georgia can come up with some verifiable system. We had a situation in Douglas with a 32-vote margin. We had another one in Cobb with a 114-vote margin, with 285 nonvotes recorded. So without any ability to go back and actually verify these ballots, it breeds a lot of distrust in these voting machines in this system. Whatever the solution is, if I can take this card and go to almost any machine in the country and withdraw money, certainly I could take my voting card and go to virtually any card in this state and it record my vote and record it accurately and spit me out a receipt just like I can at my ATM machine. Perhaps technology will get us there in the future. What I am here today for is an issue that came up in Douglas County concerning a city vote -- a city ballot and a county ballot. There was some confusion over whether or not city voters were getting county ballots when they requested them. I was told by my election board that by, based on the indication at the top of absentee ballot form would be determined which ballot you are to receive. But it says county or municipality. It does not indicate that you are seeking one or both. My assumption would be that if I am a city voter I also am qualified to vote in a county race. I should get that ballot without having to justify or to explain that I want both ballots. That should be up to our elected officials. If they can verify my name on application, then they can certainly verify all the ballots that I am qualified to vote on and send them to me. So my solution is, similar to the democratic box and republican box, to check here do you want a county ballot or a municipal ballot or if your procedure is that if I am in a city I automatically get county ballot, then certainly the officials of each county should be instructed it is not up to their discretion to determine whether or not I get a county ballot or not. If I am a city voter, I automatically get that county ballot also. My recommendation is, the application form should be changed. There should be some indication at the top whether or not I am asking for a city ballot, county ballot or both ballots, just you are asking whether or not I want a democrat or republican primary ballot. I think that would solve the problem?

SECRETARY KEMP: Thank you, Mr. Bell. I appreciate your comments. Thank you for being here today. Ms. Anderson, welcome.

MS. ANDERSON: Thank you. Good morning? I just want to mention briefly, a couple of things.

SECRETARY KEMP: If you would just quickly give us your name and address.

MS. ANDERSON: Cece Anderson, Atlanta, Georgia.

SECRETARY KEMP: What's your whole address, please.

MS. ANDERSON: 938 M.L. King, Jr. Drive.

SECRETARY KEMP: Thank you.

MS. ANDERSON: Thank you. I am speaking on behalf of the women around

the state as I travel. There is so many inconsistencies in voting here. I am just very disappointed with the whole voting system all together, in Georgia. I am worried about and concerned about votes that are being found in drawers and not county. I really want this addressed. Do we have a newsletter or form or something that we can check off, eventually, where you guys have found and corrected. And also we want to see a more diverse board here, because we are a diversified state and we want some consistency straight across the board from county to city. You can vote in the city, then you have to vote in county and nobody knows who's doing what or where to go in these different precincts. Also, I want to mention to you that I travel around the state. There are people who are registered to vote that is not on their list. When they get to vote, they are showing their ID and even if they are given a provisional, we don't know for sure whether that's been counted. When you get to the voting machine we are not sure whether or not that vote is counted anyway. I have heard so many cases about people who have voted on supposedly have voted for a particular candidate, and we don't think that vote went towards that person. So those are the inconsistencies around the state that I am very disappointed in and would like to voice my opinion concerning that, on behalf of the women around the state. Thank you.

SECRETARY KEMP: Thank you, so much, for being here, today. I would just remind anyone in the audience if there is any matter that concerns you about a voting process, potential voter fraud, actions by any of our processes or procedures, Chris Harvey is our Chief Investigator. You can call his office and make a complaint. You can go to our Stop Voter Fraud Website and submit that by email. We have got a 1-800 number you can call. We will investigate any allegations that are there. We get a lot of them. But we take them all seriously. Some of them, there ends up being nothing there. Some of them we end up referred to the Attorney General. And sometimes they turn into criminal cases. But I can assure you if you have a situation that you are concerned about, if you will let us know, we will look into it. With that we are going to move on to the approval of the minutes. We've actually got two sets of minutes that we need to approve. The first from our board meeting on November 17th 2010. Members of the Board, are there any comments or corrections on the minutes.

MR. EVANS: I move that they be adopted.

MR. WEBB: Second.

SECRETARY KEMP: We've got a motion by Mr. Evans and a second by Mr. McIver to approve the November 17th minutes. Any other comments?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed; same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries. The second set of minutes is from our December 15, 2010 meeting. Any comments or additions or corrections to those minutes?

MR. MCIVER: I move they be approved.

MR. WEBB: Second.

SECRETARY KEMP: Hearing none. We have a motion by Mr. McIver and a Second by Mr. Webb. Any other comments?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of approving the December 15th minutes, please signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

SECRETARY KEMP: All opposed; same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries. With that we will move on to our Inspector General Reports, our consents cases. The first two cases that we have I will ask if there is anyone here that wants to speak to any one of these cases. Just to remind everyone who has not been to a meeting on some of what we perceive as noncontroversial cases that were slated for dismissal, we put on a consent calendar and vote on those in block, to help us save time; however, if there is an individual here, respondent, complainant, whoever, that would like to speak to those cases, we will pull them out because we want to make sure the public can be heard. If there is not, we will let the Board decide whether they want to dismiss the cases on the consents calendar. Also, any board member has the right to pull one of these cases out to have discussion. Is there anyone here that wishes to speak to SEB case number 2010-71 Clayton County primary election or the 2010-118 Gwinnett County absentee ballot case? Anyone wishing to speak on that?

MR. EVANS: Move they be closed.

SECRETARY KEMP: Hearing no speakers, Mr. Evans has made a motion to close these two cases.

MR. WEBB: Second.

SECRETARY KEMP: We've got a second by

Mr. Webb. Any other discussion by the board?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, we have a motion to close these two cases. All in favor, signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed; same sign?

(NO RESPONSE)

SECRETARY KEMP: That motion carries and those two cases are dismissed. We will now move on to our current cases. I do have one change that we are going to make in our agenda. We are going to call case number 2010-34 Hancock County. If they are here and ready to present, we had made call situation that came up and we want to try to let these folks hear this case, where they be dismissed to take care of that. Mr. Harvey. I'm sorry. Mr. Brooks.

MR. EVANS: Mr. Secretary, members of the Board, this case is SEB case 2010-34. It involves Hancock County.

SECRETARY KEMP: It is number 16 in your binder, just so you can move to it.

MR. EVANS: The election that was involved was the July 20th early voting, primary election in Hancock County. The allegation in this case was that the early voting period did not open on June 7, 2010, as required by the law. There was also an allegation that the Overseas UOCAVA ballots were not mailed on time for people to get those ballots. During the investigation it was determined that the DRE machines were not set up on June 7, 2010, as they were suppose to be. They were set up on June 8, 2010 and people were able to start their early vote period a day late. In talking to the probate judge and the chief registrar, there was some miscommunication between the two of them. Both of them were out of the office at that time and it did not get set up on June 7th. We also determined that the UOCAVA ballots were mailed on May 21, 2010, which was in compliance with the law at that time. During the investigation it was also determined that the logic and accuracy testing had not been certificated, as required by the state election board rules.

SECRETARY KEMP: Any questions for Mr. Brooks?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, Is anyone here wishing to speak to this regard?

MS. SHAFER: Yes, sir.

SECRETARY KEMP: If you would, just state the name and address for the record, please.

MS. SHAFER: Yes, sir. Good afternoon, Mr. Secretary of State. My name is Lee Shafer. I represent the election superintendent for Hancock County, Ms. Barbara Rice. Pursuant to the letter that was received, dated June 24th, from Mr. Harvey, I am here to speak on the potential violation number concerning Judge Rice, that she violated a state election board rule by failure to certify the LNA testing. Very respectfully, Mr. Secretary of State and board members, I have originals here, which is a certification. I will be glad to present them. I do not know why this allegations is here, but with all due respect, would request that this be dismissed. Again, this is a certification. What my client is being charged of is that she failed to certify that she had done the -- or had done the LNA testing, which I would contend is not correct. I have the originals here. I will glad to present to your investigator. I do believe it was Mr. Hernandez. I don't know if he is here. I will grand to present it to Mr. Harvey, whoever is present, but, again, it was, in fact done. They are signed. They are here. They should be in the superior court clerk's office, but they are here with me today.

SECRETARY KEMP: Can we get a motion to accept the information?

MR. MCIVER: So moved.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion and a second. All in favor say, aye?

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: Okay. We will take those documents from you.

MS. SHAFER: Thank you.

SECRETARY KEMP: Did you have anything else you wanted to add?

MS. SHAFER: No, sir. I want to say Your Honor. I do, again, request that this be dismissed as a review and then, also, thank you for taking us ahead of time. And after I finish with Mr. Harvey, may I please be excused so I can get the medical center?

SECRETARY KEMP: If you will just Hang on one second. Mr. McIver.

MR. MCIVER: Ms. Shafer.

MS. SHAFER: Yes, sir.

MR. MCIVER: It's always an honor to have a lawyer of your standing appear before us.

MS. SHAFER: Thank you.

MR. MCIVER: I would point out this is not exactly your first trip here, on behalf of Hancock County, is it?

MS. SHAFER: No, sir, it is not.

MR. MCIVER: Nor is it Judge Rice's first trip.

MS. SHAFER: I do believe it is the second, Your Honor.

MR. MCIVER: Well, it's, a least, the second in that regard. I remain troubled about the frequency that we hear from Hancock County. I would hope that any future violations that you council that your client that all prudence possible needs to be brought to bear, because, to be candid, at least in my mind, I speak for no other members of this board, any time I hear Hancock County, I get a suspicion that it's more trouble again, in a county that's having continuing difficulty running it's elections. And that is not a good opinion to have, but it is one I clearly possess?

MS. SHAFER: I can certainly appreciate your points. And please understand the way we are here today is that there was an early voting situation. And please understand that as the election superintendent, Judge Rice has charge absolutely -- I commend her, she did what she was supposed to do, pursuant to Georgia Law. We have all the documentation here today. And we are very mindful of the fact that we need to do better sometimes. We are trying. This time we did it.

MR. MCIVER: I hope you are right, Ms. Shafer, but do better really isn't the standard that we apply. This is risk free, error free.

MS. SHAFER: I understand that. Correct and I will submit to you that in every election from ever County that is in this room today, if you take your regs, which, by the way, I will point out to you, that what my client is supposedly in violation of, Reg. 183-1-12-02(3)(b)(1)(iii), which is about nine pages back, a certification that she signed, that she signed (repeated) in the possession of your officials right now, meets your criteria.

MR. MCIVER: Thank you. Again, we are honored to have somebody of your status to be here.

MS. SHAFER: Oh, thank you, so much.

SECRETARY KEMP: What about the potential violation of not starting early voting on time?

MS. SHAFER: That is done through the registrar's office. And the registrar, which is -- Judge Ingram used to be out probate judge in Hancock County, but she was the

newly appointed chief registrar. She is represented by Mr. Clark. So, I am not handling that, obviously, because we didn't want to conflict. I only represent Judge Rice.

SECRETARY KEMP: There you go. Thank you. Anybody else have a question for Ms. Shafer. Mr. Webb.

MR. WEBB: I did for Mr. Brooks. Mr. Brooks, have you seen the certification?

MR. EVANS: I see the one Ms. Shafer gave me. I also have a folder here that has the copies in them that Investigator Hernandez brought and put in the file. The ones in the file are not signed.

MR. WEBB: So they were sign after the date.

MR. EVANS: I don't know when they were signed. They just weren't signed when he obtained copies of them, during the investigation.

MR. WEBB: So, Ms. Shafer, I am asking you, you are saying that the certification was done correctly, but doesn't a certification have to be signed.

MS. SHAFER: It is signed. I don't know when Mr. Hernandez was -- I don't know where he went. I don't know who he asked. I do not know. I have not spoken with him. But I will tell you that those certifications that I have in my hand today were done.

MR. WEBB: Were they done timely?

MS. SHAFER: Yes, sir, I do believe they were.

MR. EVANS: Do we know when they were signed? It strikes me as odd that we would have an unsigned version and a signed version. The easiest answer is to figure out when they were signed. It wouldn't be so great if they were signed on the way here today.

MS. SHAFER: With all due respect, Mr. Evans, I think that you familiar with my professional career. I would certainly hope that you would not be indicating that I would have my client sign them on the way here.

MR. EVANS: No, but I would be asking when they were signed. I was just making the point, the date of signature -- we clearly agree that there are boundaries within which you have to operate. If the certificates were signed yesterday, you and I both agree that would inappropriate.

MS. SHAFER: Correct.

MR. EVANS: That's something that I would expect you to do.

MS. SHAFER: Correct.

MR. EVANS: If they were not signed on the day that the investigator was there, that raises a flag for me. I have to say to myself. If they were signed, why was the investigator given signed copies. Why was the investigator given unsigned copies?

MS. SHAFER: Well, with all due respect, I don't know when the investigator was there. And I don't where the investigator retrieved his copies, whether it was from the superior court clerk's office, whether it was from my client's office. I don't know the answer to that question. To the extent that you would like to have an evidentiary hearing to establish that, we can certainly do that.

MR. EVANS: Right. And the way to do that would be to simply bind it over and then the Attorney General's Office could sort through all that, right?

MS. SHAFER: If that's what you want to do.

SECRETARY KEMP: Any other questions? Mr. Brooks, did you have something?

MR. EVANS: The investigator was in Hancock County on August 3rd.

SECRETARY KEMP: Where did he get those documents?

MR. EVANS: He got those from Judge Rice.

MS. SHAFER: Pardon me?

MR. EVANS: From Judge Rice.

MS. SHAFER: I understand that this specific code section she purportedly in violation of, basically, says that these are to be maintained, that these documents shall be maintained with the Clerk of Superior Court. I would respectfully submit to this Board why your investigator did not go to the Clerk's Office in order to obtain the actual record, because those or the originals.

MR. EVANS: I am a little troubled by that. Are you suggesting that the clerk would be more reliable than getting them from your client?

MS. SHAFER: What I'm saying is that the originals are in the Clerk's Office, so if you -- my client would only have copies of these things. Understand.

MR. EVANS: Where did you get the copies that are signed.

MS. SHAFER: Those or originals that are to be filed if Clerk's Office.

MR. EVANS: And where did your client get the unsigned copies.

MS. SHAFER: I think she probably gave him the copies that she had when these

people came and certificate the DRE, you know, the LNA testing.

MR. EVANS: So, did she sign them at that point?

MS. SHAFER: I think she signed them simultaneous with submitting them to the Clerk's Office is what I'm saying.

MR. EVANS: And so did she make a photocopy of what she signed.

MS. SHAFER: Well, obviously, she didn't, if she purportedly gave him the copies that were not signed. And, with that being said, there has been no issue concerning the validity of this testing whatsoever. This is clearly a question of whether, because my client does not do that, she hires it out. I mean, obviously pays a company, and what she did was paid this company. They came out. There is not question concerning validity of the ballot. It's a matter of whether her signature, as I am hearing it now, was on a copy that was received in August. Whether her signature, because that is a certification, so that is the issue here. I want it to be clearly understood, because, again, we thought we were going to be here for not having the ballots up and ready to go on January 7th, for early voting, which is really a question for the registrar's office. But, again, this is a matter of the certification. And that's the signature. It was done. We have all the documentation. I am sure these folks have it too.

MR. EVANS: No. I agree with you that the security of the equipment is at the heart.

MS. SHAFER: Correct.

MR. EVANS: Unfortunately, in many cases like this, what happens is we then get into issues that are ancillary to that. For example, and it worries me and I think it worries my colleague, Mr. McIver, because we have seen this before. If the short answer, when the investigator asked for the forms, if the short answer is to say you need to get those from the Clerk to get your signed copies, we wouldn't be here today, if, indeed, the Clerk had signed copies. Instead the investigator was handed forms and said here are the forms. Later when we get to a hearing like this, we determine that the forms being provided by Judge Rice are unsigned. And that you today produced forms that are signed. Suddenly, we thrust in the midst of trying to figure out why couldn't that have been handled in the investigator phase. Or why before getting here today could someone not have called the investigator and said, hey, we have got the signed forms here? I am always a little bit amiss, and maybe it's just growing in Dublin or Warner Robins, were you always cast a watchful eye at the idea that it's not an ambush, but suddenly proof on the day of the hearing, here is everything that was missing, when that could have been provided in the investigation phase. I am sensitive to how hard the job of our investigators is already.

MS. SHAFER: Certainly, Mr. Evans, and I would respectfully submit that the election superintendent, again, had hired the election systems an software company, Premier Election Solution, pursuant to 21-2-379-6(b) to do this. And, you know, again, if you needed her signature, I don't know. I have never spoken to Mr. Hernandez. I wouldn't know him if he came up here an slapped me in the face. I know he wouldn't do that, but the point is this. This very easily could have been resolved. But from the point in August, which I don't even know when Mr. Hernandez was there. If it is August, I certainly will accept that. But from August until January 24th -- and I could be wrong and my client's here, but I don't

know of any contact that was ever made. If there was issue about a signature -- understand, folks, if you look at this, it is one signature on a line. Okay. She doesn't test the machine. She hires someone. We have their affidavits, pursuant to the code that they there are supposed to complete. And they have done that. But, again, in the events that it is a signature on one line, it is easy enough for someone to say, hey, where is the signature, right? If she is missing the signature, she didn't sign it, fine. That's okay. Again --

MR. EVANS: But it's not okay. I think that is where we disagree. It's not okay. We have to have accountability. There is one person who we depend on and they can outsource it. They can do whatever.

MS. SHAFER: And they did.

MR. EVANS: But at the end, we require a designated person to sign. And the reason we do that is accountability.

MS. SHAFER: And they did.

MR. EVANS: And now we have a question.

MS. SHAFER: No, sir, we don't. We don't have a question.

MR. EVANS: Well, then, let me pose a question to you.

MS. SHAFER: Okay.

MR. EVANS: When the investigator asked for the forms, why did your client not either say, you need to get them from the Clerk's Office or here are the signed copies?

MS. SHAFER: Well --

MR. EVANS: You don't know the answer and that is the question. That is my point. We do have an unresolved question. And unresolved questions are the kinds of things that we typically have a fact finder figure out for us.

MS. SHAFER: Well, with that being said, I will also point out to the Board that, number one, do you realize that you all have a training session in Valdosta, Georgia that is going on right now. Do you realize that people who were in the training session

had to leave to come up here to be at this hearing? And if we are going to save money to stay, that is not saving money.

SECRETARY KEMP: Okay, well, you can feel free to give us your opinions on when the meetings are, but we are going to stick to facts at hand.

MS. SHAFER: I'm sorry. Yes, sir, Mr. Secretary of State. I appreciate you all taking me early. And to the extent that -- please let me reiterate that I do not take signing a certification lightly. This certifications are over there. And to the extent that you would like to make copies of them, I will make copies of them for you. But I would like the originals back, so that we can maintain them in the Superior Court Clerk's Office.

SECRETARY KEMP: Okay. Any other questions for Ms. Shafer?

(NO RESPONSE)

SECRETARY KEMP: Can we make copies of those documents? Anything else from the board?

(NO RESPONSE)

SECRETARY KEMP: Okay. Anyone else wishing to speak on either of these matters on this Hancock County case?

(NO RESPONSE)

SECRETARY KEMP: Thank you, Ms. Shafer. If you can just stand by, we would appreciate it.

MS. SHAFER: In fact, if I may, I think -- you must be Mr. Hernandez.

MR. HERNANDEZ: I am.

MS. SHAFER: May I go with him to make a copy, to make sure.

SECRETARY KEMP: Yes.

MS. SHAFER: Okay. Thank you.

SECRETARY KEMP: Yes, sir. Welcome. If you would, just state your name and address for the record.

MR. CLARK: Mr. Secretary, I'm Attorney John Clark I represent Chief Registrar Ingram and there is alleged one violation. Just to state, briefly, the record alleges that early voting machines had not been put in place at the beginning of early voting. Of course, we are not here to say that that is not accurate. That was a misunderstanding, as she had been recently appointed as Chief Registrar. This was not an intentional thing that she just intentionally failed to put these machines in place. Because of her recent appointment, there was a misunderstanding on who would set the machines up and that is what actually happened. The machine was set up on the 8th. I think the record will reflect that. I think this was simply and oversight. This was a matter that should not be referred over to the Attorney General for him to investigate the matter. I think this is a case that just simply warrants maybe a warning that the Chief Registrar, who was recently appointed, would make sure, in the future, that these machines be in place and be operated for early voting or whenever they are supposed to be operated. That is, basically, what happened in this case. If there is a question -- I read the documents. I read the allegations. And I talked to my client about this, I know I have known her for many years. Are there any questions from the board?

SECRETARY KEMP: Thank you Mr. Clark. Mr. McIver.

MR. MCIVER: Mr. Clark, I am always concerned about the impact of such a situation as this, albeit, perhaps innocent, as you have indicated. Do you know, offhand, or would your client know here today, was anybody denied the opportunity to vote? They appeared the first day and they were unable to come back at any other time to vote?

MR. CLARK: I talked to her about that. She does not have any. She said she didn't

know of any. If there were some, she didn't know about it. The impact, if somebody was denied access for a day, certainly, that is something that we don't want to happen. But sometimes things happen. You have to understand that. But I did talk to her about whether or not she had any complaints by anybody who could have voted that day and didn't vote that day. She doesn't have any information. There has been information sent to me. I don't guess the Board has any information, because reviewing the file I didn't see anything in allegations that someone complained that they didn't have the opportunity to vote that day. I certainly understand that. I understand that you want the machines in place. But this is situation where she was given the job. It's a clear misunderstanding and, certainly, that would not happen in the future.

BOARD MEMBER: Thank you for your contribution today. Having attorneys present like this helps us understand this issues.

SECRETARY KEMP: Any other questions from the Board?

(NO RESPONSE)

SECRETARY KEMP: Is there anyone else wishing to speak in regard to this case?

MR. EVANS: I just had a quick question.

SECRETARY KEMP: I'm sorry.

MR. EVANS: What corrective actions were taken?

MR. CLARK: Well, actually, corrective actions, she actually put machine -- voting started on the 8th. It is just an oversight, a miscommunication, a misunderstanding because she had recently been appointed. She was under the assumption that someone else would set the machines up, which is her job. So we don't deny that responsibility. I think in a situation like this, the corrective action simple should be that should not happen again. And, certainly, I'm sure with her credentials, in the future, that will not happen again.

MR. EVANS: What I am suggesting is that if you said, you know, we have now adopted a protocol or practice procedures where if we have new person, and identify what caused the (unclear - coughing) and then have something designed to fix and prevent that from happening again. If you had protocol in place that said any time we have new people, there will be this additional layer of protection to make sure. For me, that would go a long way to say, okay, one way to resolve this since there is really no fact in dispute, but is to have an instruction that adopts the protocol that you have given us. You said we understand we have problem and here is how we make sure that problem never happens again, from now on every time a new person has that responsibility, there will be an additional supervisor. There will be a check list. There will be something that helps us, the four of us, the five of us, feel comfortable that it won't happened again.

MR. CLARK: I understand what you are saying. Are you asking us to submit something to the Board. I understand exactly what you said. We won't have a problem in doing that, submitting something to the Board that would prevent something like this from slipping through the cracks the next time.

MR. EVANS: I think a consent decree, where you, basically, put in writing for us what has been done and we accept that as part of a resolution, might an effective way to solve it. And what I here you saying is, yes, we are more than willing, because, we, too, want to make sure it doesn't happen again.

MR. CLARK: We don't want that to happen. It was a new appointment. It was simply a miscommunication. I certainly would agree with you that as we proceed forward we don't these things to happen again, in whatever way we can work this. It is on its face that the machines with nor not set up. That's indisputable. I think the think is to go ahead and move forward on this and make sure that doesn't happen again.

SECRETARY KEMP: Thank you, Mr. Clark. Anyone else wishing to speak on this matter?

(NO RESPONSE)

SECRETARY KEMP: Okay. Do we have any other new information that y'all would like to share with us?

MR. EVANS: No, sir.

SECRETARY KEMP: Okay. Any other comments from the Board?

(NO RESPONSE)

SECRETARY KEMP: Has Ms. Shafer made it back?

(NO RESPONSE)

SECRETARY KEMP: We have got copies of the documents, is that correct? Any other discussion from the Board?

MR. EVANS: I think on the second one involving Chief Registrar Ingram, I would be more than happy to make a motion that he work with the Attorney General and come up with a consent degree that basically codifies the corrective actions that are in place to make sure that that doesn't happen. We will need, in that consist decree an acknowledgement that the violation occurred, but that for purposes of the future, a corrective plan has been adopted.

SECRETARY KEMP: Is that is a motion?

MR. EVANS: Yes.

MR. WEBB: I will second that.

SECRETARY KEMP: Okay. Did you get all that? We have got a motion. And this is on the second part of this, the second part of the motion, in relation to Ms. Ingram. And Mr. Evans has made a motion to bind this over to get a consent agreed upon, is that correct?

MR. EVANS: Actually, I don't even think we need to do that. All we would really need is for him to come back for with a proposed consent degree, really is all you need.

SECRETARY KEMP: Okay. All right. We had a second. Mr. Webb seconded that. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: All if favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All oppose; same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay. That motion carries. Okay. Now, on the matter with Judge Rice and Ms. Shafer. Thank you, Mr. Clark. We will look forward to hearing from you and we will be in touch with you.

MR. CLARK: Who will get in touch with me; Ms. Brumbaugh?

SECRETARY KEMP: No. Actually, we will handle that internally.

MR. CLARK: Through the Board, okay. All right. That's fine.

SECRETARY KEMP: If you will just make sure we have your contact. If you will give Jessica your --

MR. CLARK: Actually, you have it. I sent a notice of appearance in.

SECRETARY KEMP: All right. Very good. We will be in touch. All right. Do we know if Ms. Shafer is here? Put a hold on that until Ms. Shafer gets here. And we call go ahead and call Case Number 123 and let Mr. Harvey or Mr. Brooks go ahead and present. And when Ms. Shafer gets back we will go back an try to get --

MR. HARVEY: Mr. Secretary, members of the Board. This is case 2008-123. It involves allegations of double voting in the 2008 general election. The complainant in this case was WSB reporter Jodie Fleischer, who reported to the Secretary of State's office that she had lists of people that appeared or possibly had voted in the State of Ohio and the State of Florida in the election. We ended up with three

respondents. The respondents are Thomas Habel, William Davis and Ramula Alverado. I will mention to the Board that the attorney for Mr. Alverado requested a continuance in this case. His issue alone is going to be continued until the next meeting. This presentation just refers to Mr. Davis and Mr. Habel. The information that was provided to us by WSB, we were able to dispel 16 names of people possibly voted in Georgia and Florida. And seven people that possibly voted in Georgia and Ohio. The investigation revealed that there were three people that voted in Georgia and three, three people that --

SECRETARY KEMP: Ms. Shafer is back. So we are going to move, since you had just gotten started -- Sorry to cut you off there. Let's move back to the Hancock County Case, Number 2010-34. Did any of the board members have anything else for Ms. Shafer?

MR. EVANS: No. My concern is that if we had the parallel to what we had on the registrar, they would lend itself to a similar resolution, which is a consent decree with an instruction. So, for example, if we had situation where Judge Rice was before us and said, clearly, there has just been a miscommunication about the transmittal of the signature cards, that is one creature, in which case we need to know if there is corrective action to make sure that those signatures exist and that they are promptly turned over to an investigator who asked for them. However, what I heard today was there was a genuine dispute about whether or not the signatures, in fact existed at the time of the investigator's visit. That's a far different issue. That is an issue that would require some degree of fact-finding in order for us to get to the truth. And so based on that, I would vote that we bind it over.

SECRETARY KEMP: Any other discussion?

MR. WEBB: No. I would second that.

SECRETARY KEMP: Okay. We have got a motion and second to bind the case to the Attorney general's office to proceed with the fact finding mission. Any or discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed; same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay. We're going to bind that over. And we will get Ms. Brumbaugh to be in touch. Thank you for being here. I hope everybody gets better soon.

MS. SHAFER: Thank you, so much. Take care.

SECRETARY KEMP: You're welcome. Okay. Mr. Harvey. Back to case 123. If you would, just start from the get-go, so we can make sure we are all on the same page.

MR. HARVEY: Yes, sir. Again, allegations of people voting in Georgia, while simultaneously voting in the Florida and Ohio. We were able to determine there were 16 names of people who possibly voted in Georgia and Florida; seven name who possibly vote if Georgia and Ohio in the 2008 general election. We were able to find out that there were only three people who actually voted in two states during the same election. Those three people were Thomas Habel, William Davis and Mr. Alverado, whose case has been continued. In each of the cases of these individuals, it was determined that they lived in Georgia. They also had a residence the Florida. In each case, the person had been registered in Georgia, went to Florida and registered to vote, returned to Georgia, voted in the 2008 election early voting and then went to Florida and voted a second time. WSB did a news report on it. Mr. Habel was shown on TV denying that he voted in Georgia. He did, in fact, vote. The registrar recognized him voting and we had a voter certificate for Mr. Habel, the Hart County. Mr. Davis also admitted to voting in both states, although he said that he didn't realize that he couldn't do it and he thought one of his votes would have been canceled. He thought that on of the election officials had told him he couldn't vote and they would just cancel out the one that didn't count. I do have a letter that Mr. Davis sent to the Board, that he asked me to present to the Board with his comments on the investigation and on the allegations. I will point out that in his letter he talks about denying that he voted by absentee. He might have been confused about he voted in person absentee in both cases. He disputes that he voted in absentee ballot, but he vote in person absentee. As far as the people that were eliminated for voting twice, we found when we did a more advanced comparison, in almost every case there were either people with similar names, with different Social Security numbers. There were people that had been sent absentee ballots, but had not returned them. There were some absentee ballots that had been mailed to people and had been return to the elections office unvoted. So, in all the cases of the 23 individuals, we did not find a person who voted twice in both states. As a result of the investigation, I recommend that Mr. Habel and Mr. Williams (as stated) be bound over to Attorney General's Office for consideration of there allegations.

SECRETARY KEMP: That's Habel and Davis?

MR. HARVEY: Yes, sir. If the Board wants to accept the letter from Mr. Davis, I'll offer it.

MR. EVANS: I move we accept.

SECRETARY KEMP: We've got a motion to accept the letter. Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: All if favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: We will accept the document. Okay. Any questions for Mr. Harvey?

MR. HARVEY: The only other thing I'd point out, Mr. Secretary is that this case was in 2008. The reason it's been delayed in coming here that the justice department and Federal Bureau of Investigation have been considering the circumstances in this case. We don't know what their final outcome will be, but that was one of the reasons for the delay.

SECRETARY KEMP: Okay. Any other questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, is there anyone else that would wish to speak in this regard.

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, I'd like to thank Ms. Fleischer again for her hard work if helping us stop voter fraud. She has been very diligent in that. We appreciate that and have certainly appreciated working with her and WSB on several occasions.

MR. EVANS: I would be interested to hear how she detected the double voting.

SECRETARY KEMP: Ms. Fleischer, would you like to fill us in?

MS. FLEISCHER: Sure.

SECRETARY KEMP: I'd love to hear from you. Thank you and welcome back.

MS. FLEISCHER: Thank you.

SECRETARY KEMP: If you would, just state your name and address, for the record.

MS. FLEISCHER: Jodi Fleischer and WSB television. We are at 1601 West Peachtree Street in Atlanta. Basically, we requested the master voting rolls from Georgia, Ohio and Florida we hired a contractor with a computer expert who used a computerized program to cross all of the information, based on first name, middle name, and last name and dates of birth for all of the voters, because that was the information we had. We found 112,000 people who appeared to be registered in two of the three states, primarily because people had moved. I was on that list, because I

had moved from Florida. When you move, if you don't call and say, hey, I moved, you end up on both voter rolls. Several of the folks we contacted had requested absentee ballots prior to moving. So they were just on the list to get the absentee ballots. And we interviewed -- our reporter in Ohio interviewed several voters who, some of them were college students, had requested absentee will ballots from Georgia and had actually received them, held them up on camera and said, yeah, here is my ballot, but voted in Ohio because they thought that the vote would count more, because it was a swing state, at the time. At the time we interviewed then Secretary of State Handel, who said, no, you vote where you live, you don't vote where you think it's going to count more. That was, kind of, part of the focus of our story. And we really looked at the fact that there is no federal registry for voter rolls, so it doesn't automatically take you off of one list. There is no tracking for it. You get a ballot for one state and another state. And that is, kind of, how we proceeded. We used addresses -- (audio interference) -- to whittle down the list. We found about, I believe it was 30-some-odd folks who appeared to be the same person based on addresses, where they had previously lived, spouses names and then, again, first middle last and DOB.

MR. EVANS: I know why you picked Georgia. Why did you pick Florida and Ohio?

MS. FLEISHER: They were both swing states in the election and sharing the border, we figured it was more likely to have that and then Ohio because it was a swing state and because we had reporter contact there who was interested in doing the story with us. They said they wanted to be part of it. We had talked about trying to expand it out and maybe in the next cycle to include other states or even a nationwide project, if we could do it; but it's, obviously, as you well know, it's really difficult and expensive to try to cross all of those names. We had millions of voter records just in the three states we used.

SECRETARY KEMP: Okay. Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Okay. Thank you, so much, again, for bringing this our attention and for working with us on the investigation. Anyone else wish to speak on this matter?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, do we have a motion by the board?

MR. WEBB: I make a motion that we bind Habel and Davis over the Attorney General's Office.

SECRETARY KEMP: Okay. We have a motion by Mr. Webb to bind both of the individuals over. Do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any other further discussion?

(NO RESPONSE)

SECRETARY KEMP: All in favor of binding over, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All oppose; same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries.

MR. EVANS: Will there also be a referral to the law enforcement authorities. I think we have done that before where we had -- it's kind of hard for somebody to say, Oh, I don't know what it was doing when you have actually checked the box next to a candidate's name on two different ballots. It's really hard to kind of explain that away. I wonder if this might be one of those exceptions, Mr. Chair where we also send it over to the appropriate --

SECRETARY KEMP: Let me let Mr. Harvey address that because I think we had --

MR. HARVEY: The challenge with that, Mr. Evans, is that when they voted in Georgia that was their first vote, in all of these cases. When they went to Florida and cast their second vote, it is the second vote. So, their Georgia votes were valid to the extent that they were Georgia residents. Now, they had not reregistered in Georgia after registering in Florida, which, I believe, is the basis of one of these violations. The FBI is looking at the circumstances. They have it under consideration. I know that in one of the counties in Florida they were considering criminal action; however, they deferred to the FBI, once the FBI contacted them. I spoke to the FBI agent who was working on the case, 2 or 3 weeks ago, and he said he still had not heard back from Washington on how they were going to proceed.

MR. EVANS: I would sat that, at a minimum, as a courtesy, maybe, Mr. Chair, you send the results of this to your counterparts in Florida and Ohio, because the Secretary of State there may, in fact, want to do something independently.

SECRETARY KEMP: We can do that. Put that on our list to follow up with them. Let the record show I'm going to step out for just one minute and let Mr. McIver take the Chair.

MR. MCIVER: Mr. Harvey, the next case.

MR. HARVEY: Yes, sir. The next case is 2009-54, The City of Fairburn, in Fulton

County. The basis of a lot of the confusion in this case is a disputed or incorrect inaccurate boundary line between the City of Fairburn and the City of Union City. The first allegation came from a Bobbie Parrot who lived on Rivertown Road. He was sent to a Fulton County precinct instead of a Fairburn precinct. He lived in Fairburn. His address had to not been corrected by the city of Fairburn. He was allowed to return to the City of Fairburn and vote a provisional ballot for the city election. We have got the city and the County cited for failure to place an elector in their proper voting district. The second allegation that ended up not being unstained was sort of on other side. A person who lived in Union City believed they should have been allowed to vote in Union City and they were sent to Fairburn. They had been fixed by being put in Fairburn, where they actually resided. They complained that they were being sent to the wrong precinct. They were actually sent to the proper precinct. They just didn't know about it. So, there was nothing to sustain that allegation. The third allegation was from a gentleman who said he was not sure whether or not the voting machine captured his vote. He said he went through the voting process and he thought he saw a message pop up. For some reason, unarticulated reason, was not able to say why he was questioning whether or not his vote counted. The record showed that he voted and his vote counted. So that appeared to be not sustained, as well. Other allegations involved the city clerk and the Assistant City Clerk. Fairburn had contracted with Fulton County to run their elections. The Clerk and the Assistant Clerk, on several occasions, went into polls, talked with poll workers; I think they were attempting to correct problems that had developed with his people being placed in the wrong precincts. They did, however, go into the precincts and interacted with poll workers. It appears that they possibly violated the Entering the Enclosed Space In a Precinct when they were not actually election workers. The other allegations is that a poll watcher, Mr. a Laurice Simmonds interfered with the election, in that while these two -- while one of these Assistant City Clerks was in the polling place, Mr. Simmonds spoke up, allegedly, berated her, told her she needed to leave, told her she couldn't be there, to the point where the Assistant Clerk left the precinct and did not finish the business that she was attempting to conduct there. The next to last allegations is that there was vague allegations that a candidate's wife was interfering in the election. There was no indication to support this. The last allegation is that a voter, Caroline Calhoun received two absentee ballots. She received her first one. She called Fulton County -- I'm sorry. She was sent an absentee ballot. She called Fulton County and said, I didn't receive it. They sent her a second absentee ballot without getting a written affidavit, canceling her first absentee ballot. Fulton County is cited for violating the provision where you have to cancel an absentee ballot, before a new absentee ballot is sent. It is recommended that all these respondents be bound over to the Attorney General's office for consideration.

MR. MCIVER: Anything else, Mr. Harvey?

MR. HARVEY: No, sir.

MR. MCIVER: Anybody here on behalf of the Fulton County Board of registrations and elections? Your name and address, please.

MR. GARNER: My name is Barry Garner, address 10570 Wren Ridge Road, Alpharetta, Georgia. The first allegation cited about we are not processing sending the voters to the right precincts; before ever municipal election we send every municipality a list of voters in their municipalities in which they are supposed to check it and notify us of any changes. I have an email here from the City of Fairburn, stating all the discrepancies that we have in the City of Fairburn and Perrin (phonetic) Road is not include. We did find out about this discrepancy until Election Day. And at that time we instructed the poll workers to let the person vote a provisional ballot and we would try to sort it out the day after. I don't think that part is a violation with Fulton County, because we've done everything we are required to do, by law?

MR. MCIVER: Did that person vote; do you know?

MR. GARNER: Yes, they did.

MR. MCIVER: Go ahead.

MR. GARNER: The second violation Mr. Harvey was talked about is when the voter called and said that she did not get her ballot, and we, in the system, went and canceled the ballot then and sent her another one. I cannot say before you we got anything in writing, because with the problems we have had in Fulton County with absentee ballots, we always error on the side of the voter. If the voter said they did not get one, we cancel it in the system and mail them another one. If we are supposed to get something in writing, I don't know if we did that or not, but we definitely got a phone call from her. We said error on the side of the voter and cancel it in the system and mail her another one right away. But we will make sure, in the future, if they called and need to send something in writing, we will make sure the procedures are in place.

MR. MCIVER: Any board members have questions for Mr. Garner?

MR. EVANS: Just refresh my recollection. My recollection was that we had an ongoing monitoring of Fulton County for a period of time.

MR. MCIVER: Pursuant to a consent decree.

MR. EVANS: Has that expired.

MR. GARNER: That expired after the 2009 municipal election.

MR. MCIVER: Any other questions from the Board?

MR. WEBB: Mr. Garner, what was the date the second absentee ballot was mailed?

MR. GARNER: I don't have that information with me.

MR. WEBB: Mr. Harvey, do we know?

MR. HARVEY: Unless it is in the file, I don't have it in the report. The records did indicate that Fulton County canceled her first ballot, as Mr. Garner said, before sending out her second one. They just didn't have the written request from the voter. We will check the file and see if we have that date.

MR. WEBB: The code section requires an affidavit. Are we pretty lax on something in writing on that or do we require a formal affidavit that's notarized.

MR. HARVEY: It's been our procedure to follow the law and require written cancellations and affidavits for absentee ballots.

MR. WEBB: If it's in writing, if a person hand-wrote a note or typed a letter and signed it and sent it in, that would be sufficient?

MR. HARVEY: I can check the code section. I believe they actually have to appear in front of the registrar to cancel their ballot. I believe the code section requires appearance in front of a registrar.

MR. MCIVER: Mr. Garner, do you know the answer to that.

MR. GARNER: That's something we will enforce. If a voter calls us, we make sure we cancel it personally, but if the person comes back, it will not count anyway, because it has been canceled. So there are checks and balances if the first ballot comes back after we cancel it. If somebody calls in to get a ballot, we error on the side of the voter. We send them another one.

MR. MCIVER: Well, the question on the table is, if they appear before one of your officials or may they simply submit an affidavit.

MR. GARNER: It's never happened since I have been here. Most of the time they can't get to downtown Atlanta, so they may be in the hospital or out of town somewhere. They might go to college in Florida and say I didn't get my ballot.

MR. HARVEY: The code actually does not say appear in front of. It says notify the Board of registrars of absentee ballot and sign and affidavit saying it has not been received.

MR. MCIVER: More to your practice. I am not asking you to interpret the law. What is the practice of your office?

MR. GARNER: The practice is if we give any kind of notification, whether phone call or email or letter from a voter, saying they have not received their ballot, and we have proof that we mailed that ballot, we then cancel the ballot and send them another because we do have a first-request on file. They did request one at a previous time.

MR. WEBB: So not matter if the first ballot comes back, it's canceled.

MR. GARNER: Yes. It would be canceled.

MR. MCIVER: Let the record reflect the Secretary has return to the meeting. I am going to continue on in this case as opposed to turning it back to him. Any other question by the board, in that regard?

MR. EVANS: No, but I will say this. It's been a -- and I think my college, Mr. McIver will agree with me -- It's been a welcome development to have you appearing before us and working on behalf of the Fulton Board of Elections, Fulton County Registration and Elections Division. You bring a level of professionalism that we need, but much more importantly, I think all of you got to see that in the first two cases, which is that if you come in here with solutions about how we make sure things don't happen again, we are going to be all ears. If you come in here blaming somebody else for what did or didn't happened, we are going to be very interesting in figuring what it is we need to do to make sure it doesn't happen again, because everybody on this Board is committed to making sure the election is its best. I know I have heard you before, Mr. Chair, comment on how much better Fulton's responds to our staff and gets things done. And we should never let that go unreported. So I do appreciate that. It does strike me that there are a number of things here that make it difficulty to simply close the case. The real question, I think, in my mind is, do we close it just as to Fulton County with an instruction and consent degree on minor issues that relate to them or do we send the whole thing over.

MR. MCIVER: (audio interference) press on to determine what else we might be hearing from either the City of Fairburn and there are four individuals that were named. I want to make sure everybody has had their opportunity to either speak or be represented. Mr. Garner, we may be calling you back. If you will be in a stand-by position for us.

MR. GARNER: Okay.

MR. MCIVER: Is anyone here to be heard from the City of Fairburn, either directly or through counsel?

(NO RESPONSE)

MR. MCIVER: How about with respect to Nancy Williams, AAK (as stated) Nancy Faulkner? Anybody here to speaks for either she or on behalf of her?

(NO RESPONSE)

MR. MCIVER: Sylvia Vaughn, same question?

(NO RESPONSE)

SECRETARY KEMP: Delfin Span?

(NO RESPONSE)

MR. MCIVER: Laurice Simmonds? If you will state your name and give us your address, please.

MS. Simmonds: Good morning. My name is Laurice Simmonds Wilson. I got married last year. I reside at 255 Triple Creek Trail, Fayetteville, Georgia. I want to address the panel this morning concerning an allegation that was only brought to my attention and two investigators came to my home and I happened to have documentation recording what really happened that day. I never put anyone out of the polling place. I complained to the Secretary of State's Office. I have the phone number listed in my correspondence that I shared with the investigator and provided both a copy of the documentation of that day. Where I witnessed the claimant, as well as her assistant, interfering in the election. I was a poll watcher on that day for a candidate for the Mayor of Fairburn, Mario Avery. I reported my findings, not only the Secretary of State, in writing. As of that day I met with the investigator that came to my home. They didn't even have the correspondence that I forwarded today the Secretary of State's Office. In regards to interference, I was not told or informed that I was even interfering with anyone, just by calling the Secretary of State's Office. A couple of instances where I called the Secretary of State's Office on that day, the line, no one answered. And there was not a voicemail. So I thought I had the wrong number. So I verified the phone number they have for the Board of Election on that day with the poll manager. And that's how I verified that we had the same number. But everything that happened, I witnessed and overheard is documented in the correspondence that I shared with your investigators. Thank you.

MR. MCIVER: Do any members of the Board have a question. One moment. The record should reflect that Mr. Evans has stepped out of the room. I think it is on the record that Secretary Kemp returned.

MR. WEBB: Ms. Wilson, I just had a quick question. When you said the City Clerk and the Assistance Clerk were repeatedly interfering with the election process, can you describe what was going on?

MS. WILSON: Yes. What I witnessed is that they came in and they didn't any badges and I didn't know who they were, at first. But they keep coming. I just asked the poll watcher next to me to verify who they were. And that's when I knew who they were. I recognized that Nancy Faulkner, she came in at least three times, which I documented. And the reason why I was so detailed in documenting this is because my experience as an OIG auditor requires me to document stuff when I see wrong-doing and that is what I did. That is what I reported. I knew that I was not to communicate with them and I did not. That is not my place. My place was to contact the Board of Election Office number, which I did do that. And when I was able to get an answer or response, I verified the number that I had with the Ms. Delphine is the name she told me is the poll manager at that place. She verified that the number I had was correct. And the investigator did come once I know I got through to the office. But I don't know if it was from my call getting through to them or from the poll manager. But someone did come.

MR. WEBB: So when you're observing them, what you were witnessing is they were coming in and they were interfering and they were asking questions to the poll workers and taking them away from their responsibilities.

MS. WILSON: Right. And they were speaking loudly. They were not discrete. They were loud. That is why I put in writing that they were loud enough for me to hear them from a different part of where I was sitting.

MR. WEBB: Great. Thank you.

MS. WILSON: I, personally, would like that the allegations concerning me interfering be removed and dismissed, because I did not. I according to the law. Thank you.

MR. MCIVER: Thank you. Just in the brief time that she spoke, is anybody here to appear on behalf of Nancy Williams, Sylvia Vaughn, Delphine Span or Ms. Williams could be a Nancy Faulkner; anybody?

(NO RESPONSE)

MR. MCIVER: Mr. Garner subsequent to hearing from now Ms. Wilson instead Simmonds, do you have anything else to add?

MR. GARNER: This is the first time I heard about any of this. Nobody called me on election day with these concerns about people entering the precinct. When I got called is when Ms. Faulkner -- the first time I heard about it is when I read it.

MR. MCIVER: Mr. Harvey, anything you want to add?

MR. HARVEY: The only thing I would add is that it appears that the geographic information system with Fulton County is working on correcting and I believe has corrected the discrepancies between Fairburn and Union City.

MR. GARNER: Yes. What we have done, after we found this problem in Fairburn, we have looked at every road, every street, every block in Fulton County and matched it with our GIS Department. We now have monthly meetings with GIS to make sure this problem never happens again. We think our database is in sink. What was happening, they were sending stuff to the GIS Department, but somehow it wasn't getting filtered down to the Election Department. We have now closed that gap because of this.

MR. MCIVER: Again, Mr. Harvey, your recommendation, is it any different than what you publicly reported to us.

MR. HARVEY: No, sir. It's the same. There was reported that Ms. Simmonds and Ms. Wilson was speaking with one of the people in the precinct. That witness did not hear what going on, but, apparently, there was some contact.

MR. MCIVER: All right. Members of the Board, let the record reflect that Mr. Evans is returning in the room. Mr. Evans, we are getting ready to considering the last part of the case 054. Despite the fact that you have been out the room, do you want to participate in the deliberations we are about to have?

MR. EVANS: I will participate in the deliberations.

MR. MCIVER: We have all seen the report and we heard from those who are here to represent, not only Ms. Wilson, but to Mr. Garner, on behalf of Fulton County. Is there any discussion at this time before I will entertain a motion?

(NO RESPONSE)

MR. MCIVER: All right. Is there a motion with respect to this matter?

MR. WEBB: For me, I think it's easy on the nine Fulton County issues that they be bound over the AG. The issues of whether we can enter into a consent decree to Fulton County to correct the two items, I am troubled by -- although Mr. Garner has done an excellent job in Fulton County, I am a little troubled by the code section requiring that an affidavit be signed in ink, stating that his practice has been to accept the phone call to cancel the ballot and resend another one. So there needs to obviously be some corrective action taken in that area. Maybe the best thing to do is just to refer the whole case over to the Attorney General's Office and let Mr. Garner work out a consents with the Attorney General's area on that, also for the Attorney General to conduct an evidence-finding on other matters and come back with some recommendations. So, in that respect my motion is to bound the full case over to the Attorney General.

MR. EVANS: Second.

MR. MCIVER: We have a motion and a second. Any other discussion?

(NO RESPONSE)

MR. MCIVER: Those if favor of the motion, please indicate by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

MR. MCIVER: Those opposed?

(NO RESPONSE)

MR. MCIVER: Let the record reflect I am turning the Chair of the meeting back over to Secretary Kemp.

SECRETARY KEMP: Thank you Mr. McIver. Case Number 2009-61.

MR. HARVEY: This is a City of Atlanta Case, involving the City of Atlanta

Municipal election, which Fulton County ran. The complaint is Kent Burman, who had his voter registration, essentially bounce back and forth between Rabun County and Fulton County. He was originally registered to vote in Rabun County. He moved to Fulton County in 2008. His voter registration was transferred to Fulton County. He then, about a month later, renewed his driver's license, using his old Rabun County address. His registration was transferred back to Rabun County. He subsequently reregistered in Fulton County. For some unknown reason, he was transferred back to Rabun County. He attempted to vote in the November 2009 election, was told he was registered in Rabun County. He was allowed to vote provisional, but his vote was not counted because he was registered in Rabun County. It has subsequently been fixed. And he is properly registered in Fulton County. The Rabun County Board of Elections has submitted a response to the executive summary that they asked that I present to the Board. I don't believe they are going to be here today. They have got a response that I would tender to the Board on their behalf, if the Board wants to consider it.

MR. MCIVER: I move that we accept the report.

SECRETARY KEMP: We've got a motion to accept. Do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: Motion and a second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed; same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries.

MR. HARVEY: In the response by Rabun County, you will notice in paragraph two that they acknowledge, to the best of their knowledge, that a clerical error is what resulted in Mr. Berman being sent back to Rabun county in September of 2008, and ultimately kept him from being registered in Fulton County.

Fulton County does not have any documents, any voter registration showing that Mr. Berman voted in Fulton County -- I'm sorry -- that he registered in Fulton County; however, he did register in 4/28, April 28th, of 2008. Therefore, Fulton County is cited for -- actually Fulton County and Rabun County are both side for failure to determine proper voter registration and failure to keep documents regarding requests for a voter registration change.

SECRETARY KEMP: Any questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Is anyone here wishing to speak on this matter?
Mr. Garner; name and address, for the record, if you don't mind.

SECRETARY KEMP: Barry Garner 10570 Wren Ridge Road, Alpharetta, Georgia. In this Berman case, like Mr. Harvey stated, he submitted a registration form and absentee application at the same time, around April 28, 2008. When we process his absentee application, we looked in the system. He was not registered in Fulton County at the time, because we had not processed his voter registration application. Then we sent this absentee application to Rabun County. I have an application here. I don't know who gave it to me, that stated on 5/27 that Mr. Berman tried to register to vote in Fulton County. I have another one here on September 28th. He sent another registration in Fulton County. He would definitely register in Fulton County in May of 2008. And he voted in the 2008 general election in Fulton County. In December 2008, for some reason, we don't know, he was pulled to Rabun County. So when he tried to come vote in 2009, we looked in the system and said, you are no longer registered here. You are registered in Rabun County. We have the application from the previous time he tried to register, but at the time we didn't know why Rabun County -- we thought he moved back to Rabun County. We didn't know. So I asked the Board to clear Fulton County of this matter, because I don't they we are in any kind of violation when we have processed everything we should have done. In the month of April, 2008, we process 11,000 registration applications. So we may be a couple of weeks behind when he processed his absentee application. We would have found it, but processing 11,000 we may be two weeks behind. Honestly, I recommend the Board to clear Fulton County of this matter.

SECRETARY KEMP: Okay. Any questions? Mr. McIver.

MR. MCIVER: Mr. Garner, when did you join Fulton County in this capacity?

MR. GARNER: July 8, 2009.

MR. MCIVER: So some of this is at least prior to the time you came.

MR. GARNER: Almost everything here is prior to the time I came.

MR. MCIVER: It is so much easier to blame you.

MR. GARNER: Well, that's fine.

MR. MCIVER: I did want to clarify for my colleagues that some of this wasn't on your watch, if not all of it.

MR. GARNER: It didn't happen on my watch, but, you know, I'm responsible for what happens --

SECRETARY KEMP: I know exactly how you feel. Any other questions for Mr. Garner?

(NO RESPONSE)

SECRETARY KEMP: Okay. Thank you, Mr. Garner. Anyone else wishing to speak on this case? Last call.

(NO RESPONSE)

SECRETARY KEMP: Okay. Any other discussions or questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Thoughts, motions?

MR. MCIVER: I will tell you what is troubling me, if I might speak, Mr. Chair.

SECRETARY KEMP: Yes, sir, Mr. McIver.

MR. MCIVER: For whatever reason, it appears things kept getting removed from Fulton County on their way back to Rabun County. To that extent, I have difficulty in holding our colleges in Fulton County responsible. Perhaps better record keeping might more clarify exactly what happened. Some act continued to intervene and removing him back to Rabun County. It doesn't appear, to me, at least, to have anything to do with Fulton County's management of its registration process. If my constituents agree with that, I would move that we dismiss this case.

SECRETARY KEMP: The Fulton County one.

MR. MCIVER: Yes.

SECRETARY KEMP: We've got a motion to dismiss the Fulton County part of this case. Do we have a second?

MR. EVANS: Second.

SECRETARY KEMP: We've got a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: We will go ahead and call a vote on that while we have got the motion. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed; same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay. That motion carries to dismiss. We have any thoughts on the Rabun County matter?

MR. WEBB: I think it's the letter from Ms. Whitmyer admits that it is what appears to be a clerical error on their part. No one is here to discussion a consent decree, so therefore I make a motion that we bind it over to the attorney general's office.

SECRETARY KEMP: We have motion by Mr. Webb to bind the Rabun County Part of the case over to the AG's Office. Any discussion? Or do we have second?

MR. MCIVER: Second.

SECRETARY KEMP: Mr. McIver seconds. Do we have any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of binding over, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries and that's been bound over. Case number 2010-78.

MR. HARVEY: This is another Fulton County Case involving the July 20, 2010 general primary. Pretty simple case. The complainant is Sandra Blackwell. She went in to her precinct to vote in the primary. On her voter certificate she requested a republican ballot. When she got to the DRE she had a democratic ballot. She voted the ballot, cast her ballot, and then went and complained to the poll manager that she had gotten the wrong ballot. The poll manager checked and found out that she did, in fact, request a republican ballot and was inadvertently issued a democratic ballot. At that point, there wasn't anything that they could do. Her vote had been cast. It is recommended that Fulton County, the poll manager and the poll worker who did that, gave her the wrong ballot card, be bound over for the listed violations.

SECRETARY KEMP: Any question for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, anyone else wish to speak on this case? Mr. Garner, welcome back.

MR. GARNER: Barry Garner, 10570 Wren Ridge Road. This did happen. I apologize that it happened. We emphasize this in training, especially in a partisan primary. Take your time. Go slow. Make sure you have the right party. Check the right box. And give the right ballot. Poll workers failed in this instances and we have put in more training. We are now putting together this month our on-line poll

worker training, so we can do more emphasis in training poll workers, because that's a difficult task. People know that. This is something that happened. And I can't deny that it happened, but we do have a procedure in place. Hopefully, it won't happen again.

SECRETARY KEMP: Any questions for Mr. Garner.

(NO RESPONSE)

SECRETARY KEMP: Thank you Mr. Garner. Anyone else like or wish to speak in regard to this case?

MS. JOHNSON: My name Anne Marie Johnson. And I am the poll manager.

SECRETARY KEMP: Ms. Johnson, give us your address, for the record. Thank you.

MS. JOHNSON: 1424 Eastern Street, Northwest, Atlanta. I was not notified. I didn't know about it until she came back in to vote again. And that's when I found out that she had been given the wrong ballot.

SECRETARY KEMP: Okay. Any questions for Ms. Johnson?

(NO RESPONSE)

SECRETARY KEMP: Okay. Thank you very much. Thank you for being here today. Anyone else wish to speak in regard to this case? Does the Board have any questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: I will entertain a motion.

MR. WEBB: Mr. Chair, I'm applying the Evans' principle, whereby Mr. Garner comes forward with a solution that appears to be most practical and workable, in my judgment, I would propose that your staff engage in discussions with a consent order and that it not go to the AG, but be handled by your staff.

MR. EVANS: I completely agree. In the absence of the complainant being here, I am always a little suspicious that there are many times when voters show back up in run-off to a primary and vote in run-off, but they voted in the other primary. What happens, because a lot of people don't realize that you if you vote in the democratic primary you can only vote in the democratic primary run-off? If you vote in the republican primary, you can only vote in the republican primary run-off. If you vote in one and then the other one has a run-off you can't then come back and vote in the other party's run-off. That little confusion point sometimes creates -- and I think our folks here have to do the best they can in managing those situations. It was noteworthy that when she returned for the run-off election, she was, at that point

told, you are going to have to vote in the one you voted before. And it surfaced. I tend to agree with Mr. McIver. I can assure you -- and, of course, you all know I am the republican appointee to the Board -- if I ask for a republican ballot and they gave me a democratic ballot, I would probably figure that out right quick. And probably say hey, wait a minute here and get a little help. So, I don't think we can make this all or nothing on the election officials. So I agree with Mr. McIver.

SECRETARY KEMP: Thank you, Mr. Evans. Is that a second?

MR. EVANS: Second.

SECRETARY KEMP: Mr. Evans seconds Mr. McIver's motion that we would, as a Secretary of State's Office handle a consent with Fulton County, which I'm sure that we can resolve that very quickly. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of Mr. McIver's motion, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All oppose, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. Case Number 2010-101.

MR. HARVEY: This is another Fulton County Case, involving a convicted felon, who registered to vote and voted while serving a felony sentence. Rico Montez Martin was serving a felony sentence when he registered to vote in Fulton County and cast a vote in the 2008 general election, while he was under sentence. It is recommended that Mr. Rico Montez Martin be bound over on the listed violations, as well a Fulton County for allowing him to register and vote while he was under felony sentence.

SECRETARY KEMP: Okay. Do we have any questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, Mr. Martin.

MR. MARTIN: Hello. My name is Rico Martin. My address is 3883 King Edward Trail, Atlanta, Georgia. I didn't realize they I could not vote, because I was informed by my former parole officer, 6 months upon my release, that I am eligible to vote. After I got my driver's license, they ask me if I wanted to register. I told them yes. I got my driver's license and I also received the voter registration card in the mail. So, I voted. No one turned me down at the poll. And I assumed it was true. Also, it

was broadcast all over the radio that convicted felons could vote. They were saying that Georgia had a loophole that would let felons vote, so I just assumed everything was legit, until I got the letter.

SECRETARY KEMP: Thank you for being here today. We appreciate you taking the time to show up. Mr. McIver.

MR. MCIVER: Mr. Martin, as a felon, there are other civil rights to which you have been denied, for example, hunting licenses. Have you applied for any of these other rights.

MR. MARTIN: Oh, no, sir. No, sir.

SECRETARY KEMP: Was the way you got registered in the first place was you were asked when you got your driver's license?

MR. MARTIN: Yes, sir. I received my card I thought I was straight.

SECRETARY KEMP: Any other questions? Mr. Harvey.

MR. HARVEY: Board members, the evidence is he actually completed a voter registration card by hand and then reregistered through DDS. He was not first registered through DDS. He was first registered with a hand-written voter registration card.

SECRETARY KEMP: Any or questions for Mr. Martin?

(NO RESPONSE)

SECRETARY KEMP: Thank you.

MR. MARTIN: I have a question, sir.

SECRETARY KEMP: Yes, sir.

MR. MARTIN: Is it any kind of penalty?

SECRETARY KEMP: We are going to get to that here, in just a second. Anyone else wishing to speak? Mr. Garner.

MR. GARNER: Again, Barry Garner, 10570 Wren Ridge Road. As Mr. Harvey state, yes, Mr. Martin did register to vote in Fulton in May of 2008; however, we have evidence, which I did not bring here today, showing he did not show up on the felon report that we get from the state until January of 2009. So I don't know exactly how often the felony report comes out, but we look through ever one from the day he registered and the first time his name showed up until January 2009, which was after the general elections. So we would have no way of knowing he was a felon.

SECRETARY KEMP: Any questions for Mr. Garner?

(NO RESPONSE)

SECRETARY KEMP: Thank you Mr. Garner. Mr. McIver.

MR. MCIVER: Mr. Harvey, would you care to respond? Is there a lag in time where the felon reports are done.

MR. HARVEY: I am being told that there are monthly reports. The felony reports come in every month. So I don't have a response to that.

MR. GARNER: We will definitely provide that, the monthly reports from May of 2008 to December of 2008. His name was not on either one of those reports.

MR. EVANS: How did that happen? Here is the part where I always worry about government. Government always tells you why you can't do things. Individuals always figure out a way you can. We have a news reporter figure it out and I think that this came from Diedra Holding in Paulding County. They figured out there's a way to do it. What we have to figure out is how we can do it. So I am trying to understand how somebody who's clearly a felon didn't make the felon list. Because, to me, we have to fix that, without regard to why, who is responsible, who is to blame. First and foremost, highest and most important job: How do we fix that? We now have in this room, in this board room the living proof that, in fact, the system didn't work. So the system needs to get repaired somewhere. So it seemed to me that we have to have a repair of some specificity or a plan to get repaired on that issue. I am just curious. Maybe the starting point is how did that happen. How did he end up being a felon on a list that a news reporter could find, but not on the list that we sent out.

MR. HARVEY: The actual complaint was made by the Diedra Holding in Paulding County.

SECRETARY KEMP: We need to make sure that we report back to the Board at our next meeting on what we're doing, the things that we're looking at, to check on the list and make sure the Counties have the correct information on that, as well. Even though these were 2008 cases we have had several of them.

MR. MCIVER: How frequently is list of deceased voters updated and is this a parallel in any way.

MR. HARVEY: Monthly, also.

SECRETARY KEMP: We are actually working on a process right now, for that to have some different notification to get that quicker. I think there has been quite a lag from vital records. And we are working with the funeral home folks and some others, looking at a quicker way of getting that information until we have to wait for the death certificate.

MR. MCIVER: Mr. Martin is on probation. Would a finding here, by us, perhaps

after votes, be a violation of that probation?

MR. BRUMBAUGH: I would take the opinion that it would not, because a probation revocation is different from a new felony conviction. So I would think it would acceptable to do both in this case.

MR. MCIVER: We certainly would not want a double punishment. Do you see my point?

MR. HARVEY: I understand, yes, sir.

MS. McIVER: Ms. Brumbaugh, on behalf of the law department, would you ensure that that is not the case, regardless of what our actions are here today.

MR. BRUMBAUGH: Yes, I can do some more research on it if you refer it to me and make the decision at that point.

MR. MCIVER: Thank you. That is all I have.

SECRETARY KEMP: Any other questions? Anyone else wish to speak in regards to this matter.

(NO RESPONSE)

SECRETARY KEMP: Do we have a motion?

MR. EVANS: I have no sympathy for people who are not citizens who register and vote. I have no sympathy for people who double vote. I have no sympathy for felons who vote, regardless. So I think it needs to be bound over. I think the Board needs to set a penalty. That penalty, like touching absentee ballots, need to be set a floor, so that while some felons may not know, they all will know because they have heard the story of this is what happens if you vote and you are not authorized to vote. And so I, for the limited procedural posture that we are today, I move that we bind it over for the attorney general to sort that out. And it's a short case to try, given that we have an admission in the open hearing that, in fact, this happened. And the only real question will be, what is the precedent that we, as a Board, set to say that anybody who is a felon and you vote, you are going the pay money. I just don't have -- part of it is -- the-I-didn't-know-it-was-wrong defense rarely worked with my grandmother or my mother. It meant that I didn't make the same mistake twice. So I think we just need to let the Attorney General's office do their job. As far as Fulton County goes, if there is no dispute that the data that Fulton County received did not contain the name, I think it's almost impossible to hold them responsible. That would be absurd. I can't even imagine saying to our elected officials, we are going to hold you responsible for violating rolls when we didn't give you the data from which to make the determination. So, If we consensus, we have agreement that in fact the list didn't contain the name, I think we have no choice but to close the file, but to also then figure out how we fix the list, so that on an ongoing forward basis it accurately reflects all the names of felons who should be on the list. So that's my motion, close

as to Fulton, based on the agreement that it wasn't on the list and to bind it over. I won't be here, but I would encourage the Board to adopt a \$1,000 penalty for anybody to votes who is not authorized, whether they double vote, whether or not citizens and vote or whether they are felons.

SECRETARY KEMP: We have got a motion to bind Mr. Martin's part of the case over to the Attorney General's Office and also on that motion to dismiss the Fulton County part. Do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: We have a motion and a second. Any other discussion?

MR. WEBB: I would like to comment. I agree with Mr. Evans' comment on precedent and the fact that the word needs to get out so that we don't have sources providing false information. I do agree at the end of the day, it falls on the person registering to vote to know whether or not they are qualified. I do have sympathy for Mr. Martin, in that he was unfortunately allowed through the system. It would have been nice to have caught it way ahead of time, rather than letting him be registered to vote, rather than letting him vote and then appear to vote again before he finds out that he was removed. But while I do have some sympathy, I have to say that I do support Mr. Evans' position.

SECRETARY KEMP: I think one of the things about if we do bind Mr. Martin's case over, we can have the Attorney General get the facts and the list and find out exactly what the time table was on this matter, which I think will give Ms. Brumbaugh a clearer picture of where we need to go with this, in my opinion. Mr. Harvey, did you have anything.

MR. HARVEY: No, sir, nothing else.

SECRETARY KEMP: Anything else?

(NO RESPONSE)

SECRETARY KEMP: All right. Did we get a second.

MR. WEBB: Yes, I second.

SECRETARY KEMP: We did. I'm sorry. That's right. We have a motion and a second to dismiss the Fulton part of the case and then bind over Mr. Martin's part of the case. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay. We will dismiss Fulton and bind Mr. Martin's case over. Mr. Martin, if you can make sure that we have your information. Ms. Brumbaugh or Jessica take it. Thank you, again, for coming today and we will have Ms. Brumbaugh get in touch with you.

SECRETARY KEMP: Case number 2009-62 City of Atlanta.

MR. HARVEY: This case involves the City of Atlanta Municipal Election in 2009, which was run by Fulton County. There ended up being six allegations. The first allegation -- let me point out -- I am going to distribute corrected copies of the executive summary and report investigation. We had to correct one of the respondents. The report, itself, is the same. There was a poll manager listed incorrectly, so we took one respondent off and put the correct respondent on in allegation Number 3. The first allegations was that there were approximately 1300 voters who cast votes in addresses that no longer existed in Fulton County in old projects, government housing. The initial allegation was proven not to be sustained. What had been submitted to the Secretary of State's office as being people who had voted was actually a list of voters, not people that had voted. Of the 1314 people, only 31 of the people on the list had voted. Four of them still lived at their addresses. 5 couldn't be located. And 22 of the people still lived in the City of Atlanta. The same issue came up in the December 2nd run-off, again, the same list. Only 45 people voted. Eight lived at addresses that still existed. 7 could not be located. 29 still lived in the city. One lived outside of the city, but had moved within 30 days. So the allegation that 1300 people voted who did not live at their address was unfounded. There is insufficient evidence. The second allegation, as we were doing our investigation, we determined that a number of precinct voter certificates were filled out improperly. They were improperly documented. We did find sufficient evidence that there were violations of the election law with regards to voter certificates at three precincts, 01E, 01R, and 09N. The issues were, they weren't filled out properly. They had an incorrect date. Five voter certificates were missing the names and numbers of poll officials. Those are the kind of clerical errors that were made by poll workers in the certification of the voter certificates. We did find some substantiation to some of those allegations. Those respondents are listed at the end on the list of respondents and allegation. The third allegation was that memory cards were left in the DRE machines in seven precincts, after the November 3rd election. Mr. Garner conceded that that happened at seven precincts. It appears that in most of these cases they were in machines that were not used during the election; however, they were not recovered until the following day. So there does appear to be substantiation to that allegation. There was an allegation that a voter was denied his right to vote. He was in line at a polling place, when a bus carrying senior citizens arrived. They were moved to the front of the line. He complained that he was moved back and said that he could not vote because they people were put ahead of him. There doesn't appear to be a violation as 21-2-409 allows of advanced age to

be moved to the front of the line. He claimed he didn't have enough time to come back. There just doesn't appear to be a violation there. There was an allegation of absentee-ballot fraud. There was one voter who went to vote and was told that he had voted by absentee ballot. Investigation revealed that, as happens in many cases, somebody else had voted. They pulled up the wrong person. They were able to identify the wrong person who voted. He was allowed to vote a provisional ballot. But there does appear to be violation for the poll worker who pulled up the wrong voter and allowed them to vote in Mr. Patterson's space. The last allegation is that result tapes were not posted on the outside doors of the precinct, after the polls closed. Poll worker stated that they did place the results on the outside of the doors. There was no solid evidence that they didn't. What happened to them after they left is undetermined, but there doesn't seem to be substantial evidence that there was a violation of that. At the end of the report you have got respondents and citations. We recommend that in all these cases they be bound over the Attorney General's Office for consideration.

MR. MCIVER: I move that we accept the substituted report of investigator.

SECRETARY KEMP: Yes. Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: We have a motion and a second. All in favor say aye?

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All oppose, same sign?

(NO RESPONSE)

SECRETARY KEMP: The motion to accept the new report carries. Any questions for Mr. Harvey. Anyone else wishing to speak in this case?

MR. GARNER: Again, Barry Garner 10570 Wren Ridge Road, Alpharetta, Georgia. I respectfully request the Board to dismiss this. Most of this is a clerical error. We have put procedures in place that hopefully these things will never, ever happen again. As far the seven memory cards that were left in the precinct, we discovered that around midnight when -- if anybody remembers in 2009, the race was very close. Being my first election in Fulton, I was afraid if we upload those seven memory card the next day, and the order changes, I'm dead. There was no way I would survive that. So I told them, yes, these are the results, but slow down because seven memory cards out, at that time I didn't know if they had votes on them or didn't have votes on them. I just know that we had seven memory cards that may -- can change the outcome of the race. So I tried to treat everybody with caution, saying, I think Reed was winning, but we don't know. Since then, we have put an affidavit in place that the poll manager and the assistant poll manager must sign, saying they tuned in all their memory cards. In addition, we have started to leave a poll worker at precinct until the poll manager calls and says, we're good, you are able

to go now. If we had to get back into the building -- if we need to go back to the precinct, that means we need to get back into the building. Once they have locked the doors, it hard to get the janitor or the principle or whoever, to let us back in. One thing I do know. They are not locked up inside the building. So we have someone staying behind along with the affidavit and hopefully that will never happened. So, in the four elections we have had since then, I can report to the board that we had all our memory cards turned in on time. We think that part has been fixed. As far as the other allegations --

MR. EVANS: How did it happen that time?

MR. GARNER: Carelessness. People rushing to get out of there. I'm assuming. I didn't really talk to these poll workers. But we definitely put this in our training class now. This is one of the things, lessons learned. I tell the poll workers, treat this memory card like money. This is the election. We must have it back on election night. So with those things in place I think they just got tired, ready to get out of there, and they weren't paying attention. Attention to detail is important in this business.

MR. EVANS: Of course, we have, from our perspective, there is a penalty for carelessness, which is very different than technical error or technical noncompliance. So while we are interested in making sure it doesn't happen again, there also has to be some consequence, if it moves beyond technical into a lack of performance. It will distinguish this case from the others.

SECRETARY KEMP: Anything else, Mr. Garner?

MR. GARNER: No.

SECRETARY KEMP: Any questions?

(NO RESPONSE)

SECRETARY KEMP: Okay. Is there anyone else wishing to speak in regards to this matter?

MR. EVANS: I move we bind it over.

SECRETARY KEMP: We are going to bind over. Do we need to pull out any allegations that there is insufficient evidence or do you just want to bind the whole thing over?

MR. EVANS: I would send the whole thing over. Given how interrelated some of it, I suspect they will be able to sort out what can be sported and what cannot.

SECRETARY KEMP: We have got a motion to bind over. Do we have a second?

MR. WEBB: I second.

SECRETARY KEMP: Mr. Webb seconds. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of binding over please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay. That motion carries.

SECRETARY KEMP: Case number 2010 Number 3 Douglas County (Quartermen).

MR. HARVEY: Mr. Secretary, members of the Board, this is Douglas County, 2010-03. It involved a Douglas County, City of Douglasville, City of Villa Rica. Sort of as a background to this, the county of Douglas was contracted by the City of Villa Rica and City of Douglasville to conduct their municipal elections in 2009. In addition to the municipal elections that were held, there was a special local option sales tax that was also on the ballot, which was a separate election, which required a separate ballots. So there were two separate ballots there. In addition there was a state senate seat that was a portion of the Douglas October and portions of Douglasville, as well, which means you have essentially three or four different elections being held at the same time. As a background, I just give that information. So as we go through the facts it will help understand how some of the concerns were about whether or not people were allowed to vote, whether they would even know to vote and where they would vote and how they would vote. There were four allegation in the particular case. One of the allegations was that the sheriff, Mr. Phil Miller was involved if a robo call to the voters of Douglas County and there was allegations that this robo call was threatening or intimidating to the voters. In interviewing sheriff Miller he was asked to read a transcript in support of the special local option sales tax. He read the script. He was opposed to some of the language that was in the script because the script talked about whether or not a federal judge would actually order Douglasville to build a new jail in Douglas County. He felt that that might be misleading. He didn't want the people of Douglas County to know that it's either you vote for it or we are going to get ordered to do it. So he had that taken out before he actually read that script. He did read the script. The robo call went out and we look at the transcript, interviewed Sheriff Miller. There was nothing in the message in itself that would be considered to intimidating or misleading to the voters. The second allegation in this particular case was that the election in and of itself was a violation of the law and that it was illegal and it couldn't be held. Obviously, that's outside the purview of our office. I believe that is something that the courts would have to resolve. We really didn't get too far into that issue. The third allegation was that the city, the voters in the City of Douglasville were not

informed that there was separate County election for the supplies. So those people who were participating in the early advanced voting period would not know that there was another election that they were eligible to vote in. If my memory serves me correctly, I think the margin of vote here that had passed was 32. That was a particular concern to the group that was complaining about this, because the voters in the City of Douglasville were not -- when they requested their absentee ballot application, they would receive the municipal ballot as opposed to receiving the ballot for the County. There was some concern about whether or not if you sent the absentee ballot in would you received both ballots or would you receive one ballot or which ballot would you actually receive, once you sent it in. In terms of looking at that, we spoke to the elections officials in Douglas county and asked them if there was some procedure that was put in place or inform or notify voters that they would be eligible to vote if both election. We were informed that there was a letter sent to ever one who had requested an absentee ballot application and that would informed them that they were eligible to vote in another election. We asked for a copy of that particular letter. The letter could not be produced. We were told that it was in the Clerk's Office with Superior Court. We obtain a court order, received all the documents from the Superior Court Clerk. There was no document, no form letter. There was nothing in there. We also contacted all of the people who had requested an absentee ballot in the mail, asked them if they had received a letter. They said, no. We were also told by the election officials that phone calls were made to all of the people who requested absentee ballot applications. There was a total of 13 of those. So phone calls were made, allege to have been made to those 13 people. We contacted them. They said they had not received phone calls to inform them that there was two elections. So to answer the question about whether or not the people actually voted in both elections we pulled all the absentee ballot applications during the earlier advance period, look at all of those and examined those to determine if the people who had requested the absentee ballots in the mail or whether they voted in person during the absentee period had voted in both elections. Based on our analysis, about 88 percent had voted in both elections. So there was some knowledge out there that there were two elections. They did vote in those. In looking at the absentee ballot applications there were some discrepancies that were noticed that the investigators determined that they violated the state Election Board and State Election Laws. In looking at the absentee ballot applications, it was determined that one of the workers in the Douglas County office, Constance Williams had completed the absentee ballot application for three people. It was later determined that two of those were her parents and one was an aunt. On those applications, she stated that they were disable to the point that they needed assistance in filling out the form. She also informed us that the ballots had been mailed back to the office. We examined those. There was no postage on the outer envelope. We examined the ballot. The ballot itself was not signed as having assisted them in voting. When we contacted the parties that were alleged to need assistance, one of them, the aunt had a broken leg -- said that she wasn't not disabled to the point that she could have filled out the forms herself and that Constance Williams had picked the ballots up and taken it back with her when she went back to the office. Speaking to the parents, the parents suffer some of the issues that you suffer when you age, but

they weren't disable to the point that they could not have filled out this process or completed the process themselves. In looking at that, they also said that Constance had picked the ballots up and taken them back to the office with her. Again, examining the absentee ballot applications, we found that another employee, Cheryl Maddox that works in the Douglas County Office voted absentee during that period. She filled out or absentee ballot application and checked herself in. She marked that she had checked her own ID and she never presented that absentee ballot to any other employee in the office for verification or for processing. We asked if there was a procedure in place on how employees would handle that, we were told yes, there was a procedure in place. We were told, no, there wasn't a procedure in place. It was just sort of an understanding of how you process that and how you process other employees. In looking at the absentee ballot applications we also found that there were 16 ballot application that were rejected. And in looking at those, the majority of those absentee ballot applications were people who had a Douglasville City address, but lived in county. But they had attempted to vote in the City of Douglasville election. In one of the cases we found two voters who had submitted a written request but had not signed that request. So those requests were rejected. Then we found the absentee ballot application request where were they had been sent in and those were rejected because they were duplicates of the ones that had been rejected. There was issue where they were rejected, not having signatures on them, not being filled out properly and there was 16 of those people who tried to vote or attempted to vote in the City of Douglasville, who did not live in the City of Douglasville. We have two documents here that people have submitted in response to the letters they have and I would ask the Board to take these into consideration.

SECRETARY KEMP: Is there a motion to accept the documents?

MR. EVANS: So moved.

SECRETARY KEMP: Motion by Mr. Evans. Do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. All in favor of accepting the documents, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion to accept the documents carries.

MR. EVANS: There was one other allegation in here that the logic and accuracy testing was not conducted in the manner as prescribed by law. During the investigation, we could not determine that the logic and accuracy testing had been done appropriately. We also sustained that particular charge as well.

SECRETARY KEMP: Any questions from Mr. Brooks?

SECRETARY KEMP: Hearing none, anyone wish to speak on this case?

MR. QUARTERMAN: Oh, yes, sir. Hey, young fellow. We're back again.

SECRETARY KEMP: Glad to have you. Name and address for the record.

MR. QUARTERMAN: My name is James Quarterman, 8880 Dornoch Circle, Winston, Georgia. First of all, I would like to invoke the Rule. I know in court, sometimes when people don't want people to hear -- your new election director and our election supervisor, Ms. Fulton, they are very, very, buddy type close friends. I would ask that, since she is going to be part of the testimony, that she not be allow to be in the room to hear the testimony of these other people, because this is some serious matters. I caution you again, they come before you under a 2008 cease and desist order. This is 2008. You already are finding now we are right back again in 2009. So before I use my time, that is what I want to ask if she would be allowed to leave the room, because --

SECRETARY KEMP: You are using your time. Go right ahead.

MR. QUARTERMAN: No. No. I wanted to ask you.

SECRETARY KEMP: All right. Mr. Quarterman, we have asked you to testify to this case. If you want to do that, you can. If you don't we can move on to the next people.

MR. QUARTERMAN: We are not going to play the game. We are going to go around and around. I just asked the question. You can answer the question or your don't.

SECRETARY KEMP: Okay. You don't ask the Chair a question. We called you up to testify on the case. If you want to banter back and forth, we can do that, but we are not going to do it here. We are going to hear the case. We have got an agenda. This is the process. You are going to go through it and be treated just like everybody else. If I was being treated like everybody else, other people have asked you questions and you have responded to them and I should be extended the same courtesy.

SECRETARY KEMP: If you ask us a question about the case, we will be glad to answer.

MR. QUARTERMAN: I'm going to yield my time. I will come up and speak after this do.

SECRETARY KEMP: No, sir. You need to go ahead.

MR. QUARTERMAN: Okay. I ain't got time for this. Let's go. The Georgia law

states that no election in this state can be held unless the official ballot is approved by the Secretary of State. O.C.G.A. 40-8-10 is the Georgia SPLOST law. They submitted a ballot to you for approval for a SPLOST on the ballot. That SPLOST law consisted of two questions. It asked the voters of Douglas County do you want approve the SPLOST. It asked the voters of Douglas County do you also want to reimburse Douglas County \$8 million for land that they spent three years prior to the SPLOST to build a jail on. I remind you that the SPLOST for this jail, this was the third time. It had been voted down in 2006 by the voters. It had been voted down again in 2007 by voters. The robo call, when Tony comes up, he wants to read the article which is signed by Phil Miller in the paper and it does state that a federal judge will mandate that you build this thing. You cannot use SPLOST money to reimburse yourself. If that was the case, then any government can go back 20 years and say, I bought some school buses 50 years ago, give me back my money. That is not the intent of the law. And, yes, the Secretary of State does approve the official ballot. And that is the only way that a ballot is issued in this state, by Kennesaw State University. The whole thing is, you can't have people letting people vote who want to vote, who they don't want to vote, don't count your votes and all of this. We just came to you in 2008 with 25,000 votes and one of your board members vote was in that 25000, was never, ever counted by any machine or anything which the law states that all votes in Georgia are counted by machine. In 2008 you let them create a second ballot. You yourself, Wes testified that he told Laurie Fulton not to make a second ballot, but she went and did it anyway. That is an illegal ballot. Now you come back a year later and the law says you can't have no SPLOST to reimburse yourself no money. Then you build another illegal ballot. So I want to know, what's the deal with Douglas County. They can just come up here and create an illegal ballot, do whatever they want to do, threaten the people and nobody do nothing. Then you fine them a thousand dollars and who pays the thousand dollars? We the people? What did Douglas -- how did that make them adhere to any principle when the money didn't come out of their pocket. Now you have got the same lady, Constance Williams, you found out in 2008 had 67 absentee ballots to come in through the mail and she stuck them in a desk drawer and filed them 10 days after the election was over. Now, this same lady is not counting ballots, writing and filling in ballots for people. And Nobody is fired. Nobody is removed. It's okay, business as usual. O.C.G.A. 21-2-5 says any aggrieved citizen, whether you vote in the election or not can contest or challenge any election. I contested an election. Hell, they throw me in jail for 20 days. How can you throw me in jail from contesting an election when the general assembly of this state gives me the right whether I vote or not. I don't care whether no judge says you can't file a lawsuit because you owe legal fees, because you challenge the SPLOST thing in the court of law. A judge does not overrule the general assembly. And then you are going to sit there and let them throw me in jail and violate my right and nothing happen, because you want to talk about being fair and equity and all of this. So I just want to know, what are we going to have do in Douglas County to get some justice. Why do people even need to go vote when we can prove to you back to back to back to back, year after year that these people do not elect people in Douglas County. They put who they want in office. They can't stop me. The people are going elect me sooner or

later. They can do all the little stuff they want to, but the people are speaking and they are sick and tired of this. And you should be sick and tired of seeing me and coming down here and ranting and raving with you all the time about this stuff. But it ain't going to stop. I will tell you right now. I will die and you know where before I ever let anybody violate my right and take anything from me. I'll be back again and again and again and again. That is not a threat. That's a promise. Until we get justice, until the people in Douglas County are treated fair and equity and they can go vote and their votes or counted by the means that you, as the Secretary of State has put in place, every vote in this state, by your on authority, must be counted on one of two types of machines, the optical scan and/or the Gym server, which does the memory cards for the DRE machines. There is no hand counting of votes. And you allowed this same man to take 25,000 votes on a spreadsheet home with him and bring back the next day to have them entered into the system and you fine Fulton County how millions of dollars, just because they locked the door and went to lunch, but didn't do anything to him. Now you are going to come back -- you know, it ain't even worth standing up here talking to you, because I can see the expression on your face right now that the same justice I got a year ago is the same justice I'm fixing to get right now. None.

SECRETARY KEMP: Thank you Mr. Quarterman. Any question?

(NO RESPONSE)

SECRETARY KEMP: Okay. Anyone else wish to speak on this case? If you would, just state your name and address for the record.

MR. CAIN: My name is Tony Cane. My address is 5628 Virginia Drive, Austell. I gave a letter, a statement to Investigator Conway. Do you folks have that, signed Tony Cain? I would like that to be submitted into evidence.

MR. EVANS: So moved.

SECRETARY KEMP: I've got a motion. Do I have a second?

MR. MCIVER: Second.

SECRETARY KEMP: I've got a motion and a second. All in favor of accepting the document, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. Go right ahead, Mr. Cain.

MR. CAIN: I also submitted as evidence a newspaper article. This is from the

Douglas County Sentinel, October 22, 2009. The Sentinel is the legal paper of the County. It is a letter to the editor by Phil Miller, Sheriff of Douglas County. It's about voting for the SPLOST. I submit this, a copy of it to Investigator Conway. Do you have this? I should be in the file?

SECRETARY KEMP: If it's not, we can accept that, if you would like us to.

MR. CAIN: I was going use that statement, by the way, in this.

SECRETARY KEMP: You want to come get that and when you get finished, we will take a motion.

MR. CAIN: That is just off my email. I sent that to Mr. Quarterman. Here is the letter that I did submit.

SECRETARY KEMP: I'll take a motion to accept the newspaper article too.

MR. EVANS: So moved.

MR. MCIVER: Second.

SECRETARY KEMP: We have a motion and a second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign, to accept the newspaper article, when you get finished.

MR. CAIN: Okay. There was also the Chapel Hill News and Views. I submitted copies of this. Mr. Conway's got the photo copies. And there is, specifically, two pages here, two letters by chairman Tom Morgan, Douglas County Commissioners and Mayor Mickey Thompson, Mayor of Douglasville. And this is October of 2009. Do you folks have this? I would like to use this right now. I went to see Laurie Fulton, the Elections Supervisor in Douglas County. I wanted a sample ballot. I no longer live this Douglas County, but I do have property in Douglas County. And my property taxes are affected by these votes. I lived in Douglas County for nearly 35 years. And I am still a property owner. I now live in Austell. James Bell and we spoke with can Laurie Marquez (phonetic) at the offices of the elections supervisor and I asked for a sample ballot. She gave James and me one sample ballot. This is it, one each. This for the county vote. When we got outside the office, we were looking at them. We said where is the Douglasville vote. There is nothing there. This is just the County. The County has a Redevelopment Powers Act. They used to call them Tax Allocation Districts. Now it's called the Redevelopment Powers Act. So does the County. There are two of those. James and I went back to the office and we said where is the city ballot. They said it's two different papers. So we were then given a ballot for Villa Rica and a ballot for the City of Douglasville. And we have the County Ballot. While I was sitting there, waiting for Laurie to get these, this magazine, which is a free magazine, was in Laurie Marquez's office. While I was

sitting there, waiting -- this was in courthouse -- I was just looking through magazine and I saw that there is an article by Chairman Tom Morgan advocating the passage of the SPLOST. This win 150 feet of the voting place. On the other side of the page, there is an article by Mayor Mickey Thompson, of Douglasville, advocating the passage of the Redevelopment Powers for the City of Douglasville. I mean, he gives a half a page of reasons people should vote for this. Mr. Thompson also says that 61 percent of city registered voters had to go to two entirely different polling places to vote in the city election and the county election. Now that number is down to 19 percent. So people have to vote, if you are a city resident, you have to go to one place to vote in the city and if you are part of this 19 percent, you have to go to another place to vote. I found that out by speaking with Laurie Fulton. County. When I saw that there was ballots, sample ballots for the City and for the County, I called her. I asked her, how are people in the city going to vote for the SPLOST and the bond and the Redevelopment Powers Act for the County. And she said that she would not give them that information unless she was asked. It was not posted. It was not advertised. No one had been notified. If people asked for assistance, she would give it. So, I thought that maybe a lot of people would be left out the voting process. If I go to a polling station and I ask for a ballot and they give me one ballot, I assume that is what I am supposed to have. I'm not assuming that I have to go down the road 8 or 10 miles and vote a second time. I called James. He was as confused as I was. I then called Quarterman. James Quarterman called Mr. Taylor at the Secretary of States Office. I believe that the correct position he has. We spoke with an assistant on the conference line. And I spoke with them. James spoke with them. I told them there were different ballots, multiple ballots and people in Douglas County were not being informed of that and what could they do? So I listened to the testimony that Laurie Fulton said the elections office said that they sent letters in the mail. They phoned people. They told them that there were multiple ballots. That is not what Ms. Fulton told me. It simple isn't true. About robo calling, if you go through Douglas County tax payer coalition website, you can read a copy of Mr. Quarterman's lawsuit against Douglas County. In that lawsuit is the transcript of the robo call that Sheriff Miller made. I listened to the robo call. I am the one who wrote it down from the recording and typed on Quarterman's computer. I actually typed that part of his lawsuit on there. Mr. Miller threatened that property taxes might have to be raised if people didn't vote for the SPLOST. Here Sheriff Phil Miller of Douglas County, October 22, 2009, letter to the editor: Douglas County faces the very real prospect of eventually federal intervention at the jail. It was a federal court order that forced Douglas County to build our current jail in 1980 and increase tax expense to every homeowner in Douglas. If that happens, county officials have no say in the design or capacity or expense of a new jail and could order us to build a taj mahal and we would be forced to comply. Federal mandates on jail procedures and added expenses would come with these mandates. Sheriff Miller said that at public meetings. The federal government is going to force us to build a taj mahal. We have it on film. James and I filmed it at the public SPLOST meetings.

SECRETARY KEMP: Mr. Cain, if you don't mind, try to wrap up here. Your time's up. I don't want to cut you off.

MR. CAIN: All right. I'm just saying that the robo call and the letters here that the sheriff -- that Tom Morgan and the chairman wrote and the Mayor of Douglasville wrote, these are ways of influencing people by intimidation. If you don't vote for this, we are going to raise your property taxes. Also, I will add one final thing. I vote in Austell now. And I am in City of Austell and Cobb. I have one ballot. I have asked absentee ballots. They said I would receive one ballot for city votes. There is no problem. I can get it done (coughing) in Cobb, not in Douglas County. One final thing, and then I'll close. After we defeated the SPLOST we had a new commissioner, Freddy Ashmon. Commissioner Ashmon and I knew each other briefly. He lived a few blocks from me. After he was elected as a commissioner, he called and offered me a job with County. He also offered me a County car. He said that I would have to show up but an hour a week, just to make a showing, and I would have this good county job with good benefits and good pension. And I said, Freddy, what do the other commissioners and Tom think about this. He said they know we know each other. They asked me to call you. And I said Freddy you know I have opposed this SPLOST before. I am going to oppose it again. He said if you work for the County, you have to do what the county wants. And the County want this SPLOST. And I said, thank you very much, Freddy, but I don't want the job. Freddy then said, it can be easy for you or it can be hard for you, which way do you want it? And I said, do what have you to do Freddy. And he laughed and he said you are going to learn the Hard way. I could not drive down the street after that, without being stopped by the Douglas County Sheriff's Department. Animal control was constantly coming by. Code enforcement -- I was facing years in prison for not cutting my grass what they said was the right way I should be cutting it. I told this man in Atlanta -- there were two other investigators in the room -- I believe it was this man. It may have been a woman there too. I told this to them, in Atlanta. Tom Morgan, at a later date and Commissioner Lathen offered James and me our own SPLOST projects. We could be to supervisors. The supervisor of a County SPLOST project was about 75,000. That was the salary. We were offered that and Tom Morgan said, the Chairman of Douglas county said, you can each have your own SPLOST projects, just tell me what you want. (unclear)

SECRETARY KEMP: Thank you, Mr. Cain. Any questions for Mr. Cain.

(NO RESPONSE)

SECRETARY KEMP: Anyone else wishing to speak?

MR. BELL: Yes. I'm James Bell. I live at 6334 Ansley Circle, in Lithia Springs, Georgia. I am just here to testify that I did witness Sheriff Miller repeatedly mention invoking Judge Shoob's name and threatening that if we do not pass this SPLOST for \$150-million prison in Douglas county, that they would increase our property taxes and that they would force us to do so. Also with Ms. Chairman Worlen repeatedly using these threats and what I consider to be intimidation to the voters, if they don't get their way, then they are going to increase our property taxes. I also was offered a job in Douglas County, because I run the Douglas County tax payers' Coalition and had helped to defeat this SPLOST twice. They had three votes in 4 years. We

defeated it twice. Within 30 days of commissioner Ashmon taking office, I had phone calls to my house offering me jobs. At the time, I guess I was too naive to understand what he was offering me. To me, it was later, I determined it to be a bribe. The issue -- I mentioned the issue of the ballot and the confusion. We actually exposed to the media the confusion over the two ballot situations and the fact that people have to go to two different locations. Mr. Chairman, look, I know what goes on in Douglas County, to me, is bad. But this going on all over the state. I'm working with Cobb County to help defeat the SPLOST there. The County officials there are also threaten the public to raise there property taxes. This shouldn't go on in a free society where people are threatened and intimidated this way. So I just ask you, our voting system in Douglas County, we don't trust it, frankly, sir. With a 32-vote margin, there is no way to verify this vote. I ask that -- something has to be done in Douglas County. I know you don't control who runs our elections in Douglas County. I understand that. Maybe we need to go back and we need to demand that the people that are running our elections, that are using or saying that we are not going to send a city voter the County ballot unless they specifically request it -- I don't know what procedures are in this state, but I think you should be demanding that these County officials give us the balance ballots that we are required to vote on. You can understand how, even if it didn't happen, that a County voter -- that a city voter did not receive a county ballot to vote on the SPLOST, you can see how on a 32-vote margin it certainly raises the suspicion. You can see how this type of thing could have happened and raise our concerns and perhaps your investigators found something different. But you can see how I think I represent a lot of people in Douglas county, how we feel about the integrity of our voting system.

SECRETARY KEMP: Thank you, Mr. Bell. Any questions for Mr. Bell?

SPEAKER: Can I add one statement to what I said and what Mr. Bell said? It's just a brief statement.

SECRETARY KEMP: We're going to keep moving on. Yes, ma'am.

MS. Simmonds: My name is Barbara Simmonds and I live at 3480 Long Lake Drive in Douglasville. I am here to answer the charges that are on this letter against me for giving false information and fraudulent entries be dismissed. I just happened to be at the courthouse and see a sign that said early voting was allowed, went downstairs and was given two pieces of paper to fill out. I told the lady there is a sign, I guess for Douglasville or Douglas county. And I told here I live in Douglas County. She told me to fill out both of these papers and I would be given the proper ballot. That is what I did. As a result of following instructions, I am now listed as possibly being a fraudulent person that could be charged with a felony. I am nearly 70 years old and I have never done anything that could even be considered close to a felony. And I did not intentionally intend to vote in the wrong election. I think that I was given instructions that I followed. And I don't know why that was considered something that was wrong. I did not vote in the wrong place. I would not have voted, if I thought I was doing something incorrect. So I am asking you to consider dismissing

these charges that are against me today in this letter.

SECRETARY KEMP: Thank you, Ms. Simmonds. Anybody have any questions for Ms. Simmonds?

(NO RESPONSE)

SECRETARY KEMP: Thank you for being here today.

MR. BOLEN: My name is Melthorn Bolen. I live at 3455 Long Lake Drive, Douglasville. (inaudible) My name is listed as a respondent in this action with the charge committing fraudulent paperwork or something to that effect. I was with her. Ms. Simmonds is actually my sister. We voted in the Douglasville Office that day together. There were several people in that office. The person in the lobby of the office who had the forms and the clip boards and she was giving instructions to fill out both applications, when you turned it in to the window they would give you the correct card to vote. That is what was done. Later on I was contacted by an investigator by phone with some questions about that. This information was given to that person. When we left that office, we heard the same instruction being given to people who were voting as we were leaving. There is 16 people on this list. We all have been given this information. That is as much as I know about this case. I am also asking for my name to be removed, because this is what I get for following the instructions of the office.

SECRETARY KEMP: Thank you Mr. Bolen. Any questions for Mr. Bolen.

(NO RESPONSE)

SECRETARY KEMP: Thank you. Anyone else wishing to speak. Commissioner, good to have you with us.

MR. BAKER: Thank you, Mr. Secretary and board members. My name is Bobby Baker. I am with the firm of Freeman, Mathis & Gary. Our business address is 100 Galleria Parkway, Atlanta, Georgia 30339. With me today is my associate. Mr. David Cole. Mr. Cole has, for you, documents, which I would ask that he be allowed to present to you at this time for your review.

MR. EVANS: So moved.

SECRETARY KEMP: We have a motion. Do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: We have a second. All in favor of accepting the document, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries to accept the documents. Thank you.

MR. BAKER: Mr. Secretary, board members, we are here today representing the Douglas County Board of Elections. Ms. Fulton, as election supervisor, Ms. Constance Williams as County Registrar and Ms. Cheryl Maddox. I would like to say at the outset that I believe Mr. Quarterman's right to vote should be upheld and defended, but the case I heard him discuss today was not the case that Mr. Brooks told us about when he presented this case. They are two different cases. I came here today ready to respond. And Mr. Cole came here to respond to the allegations that came from your office. I would just like to say at the beginning, this is not a case about the Douglas County SPLOST. It is just not the case. This is not a case about the 2008 vote. What Mr. Quarterman has failed to present to you, which is contained in the documentation that has been presented to you, is that this complaint is actually the result of the 14th lawsuit that he has filed against Douglas County and the commissioners of Douglas County since 2002. This is not a concerned citizen. As I was listening to Mr. Quarterman, this is political grandstanding on his part. He is abusing this forum. He is using this for his own political gain. We are here, trying to make sure that if there are any problems or contention is if there are, they are strictly technical issues. As I have heard the Board say before, that being proactive and trying to address these issues is what you're looking for. If you will look in the packet -- and Mr. Cole will go through this in detail with you -- we have already prepared for your consideration and hope that the Secretary of State's Office will look at this before any action is taken, changes to rules and procedures to correct whatever perceived technical violations may have occurred. In addition to that, we also have presented to you three affidavits from the parents and aunt of Ms. Williams, seeking to clarify their status and their assistance that have provided to them by Ms. Williams in helping them fill out their absentee ballots. This came, this complaint that came to you was actually the result of a lawsuit that was filed November 12, 2009 in Douglas County Superior court. Mr. Quarterman is correct in alleging or telling you that he was incarcerated. The reason he was incarcerated is because he had violated a prior order of the Douglas County, issued by David Immerson in civil action Number 07-CD-02567 issued November 30, 2007, which specifically provided the circumstances in which Mr. Quarterman would be permitted to file additional actions. In other words, he would either comply with the court's order in paying the attorney's fees and fines and felonies which had been assessed against him, which had not been done for this state. Or he would seek prayer or approval by the court before filing any other action. Mr. Quarterman failed to comply with the court order of 2007. He was held in contempt. His case was dismissed on the merits. If you look, court's order is attached in the packet that has been presented to you. It was appealed to the Supreme Court of Georgia. The Supreme Court of Georgia upheld the trial court. We will let the documents speak for themselves. Let the records of the Georgia Supreme Court speak for themselves. So I ask that -- Mr. Cole at this time will go into detail as to what has been done, what

we are going to do to be proactive and address whatever tactical problems that may have been. We are committed to eliminating any problems in the elections in Douglas county. Are they perfect? No. Are they going to try to be perfect? Yes. That is why we have for your consideration and hope you will look at them before any action is taken, the proposals that we would solicit the input from the Secretary of State's Office as far as their input and suggestions before any final decision is made you. I would like to turn it over now to Mr. Cole. And he can explain to you the proposals contained in the packet.

MR. COLE: Mr. Secretary, Board members, I appreciate this opportunity to address you. My name is David Cole of the law firm of Freeman Mathis & Gary. As Mr. Baker indicated, this case originated from a complaint filed by Quarterman, but the fact is, as indicated in the investigator's report, none of Mr. Quarterman's allegations have resulted in any findings of potential violations in this case. It was the same outcome that was filed in the lawsuit. He filed over a year ago by the same lawsuit. It was also dismissed based on the fact that none of his allegations alleged any violations of the election code. What did happen, however, is that during the investigator's audit of this election, he uncovered what he, himself, described as certain technical violations, unrelated to any allegation made by Mr. Quarterman. There are basically four issues that are before the board on these potential violations. The first is that Connie Williams helped her elderly parents filled out their absentee ballot applications. The second is that Cheryl Maddox, an employee of the elections office checked herself in to vote during early voting. This third is that there were some technical violations, such as dates being left off, absentee ballot applications, when they are received in the office or within reason for rejecting the absentee ballot was as indicated on the application. And the fourth is that there was an issue regarding notice of the logic and accuracy testing in this case. What I want to do is address each one of those briefly I will be brief, because the information we have brought you in packets actually show that on, at least, two of those issues, there was no violation at all. On the other two, they were merely clerical errors we submit and do not warrant binding over to the AG's office and should be dismissed. So the first issue is the issue regarding Connie Williams helping her parents and her aunt fill out their absentee ballot applications. What we have provided to you in tabs 1, 2, and 3 of our packets are affidavits from the Ms. Williams's parents and her aunt, where they testified that they are disabled. For example, Ms. Williams's mother suffered a stroke in 2008, which has affected the right side of her body and makes it difficult for her to see or to write anything other than her signature. Ms. Williams's aunt at the time, had fallen and was under medical care and was taking, from what I understand, was pretty strong medication that she says made it difficult for her to see and could not focus on reading the print on her absentee ballot application. So they testify in these affidavits that they ask their daughter. They asked their niece who works in the elections office if she would help them read the information on their applications and make sure they filled it out right. That's what she did. The parent also testified in their affidavits, that when they completed their ballots on their own, they asked Ms. Williams to return the ballots for them to elections office because they could not get there on their own and their new daughter worked there. All of these things are allowed on election code. In fact, what Ms. Williams's parents

and aunt testified to in the affidavit is that this is the information they gave to the investigator when they were interviewed. Why the investigator would say something to the contrary is not clear. It appears there must have been some sort of miscommunication. I think the reality is that they're elderly. They were interviewed by the investigator without anyone else being present. There must have been some confusion, but the fact of the matter is what you have before you, sworn testimony that they are disabled. They asked for help and that's what was done. Based on that, we submit there is really no basis to find a violation and it should be dismissed. The second issue was that Cheryl Maddox checked herself in to vote. I have spoken to the investigator prior to this hearing this morning. What we both discussed is the fact that under the election code there is really uncertainty as to whether this even was a violation, because what the election code requires is that you show me your ID and be checked in by an absentee ballot clerk or a poll worker. Well, Ms. Maddox is an absentee ballot clerk. There is nothing in the statute that says if you are an absentee ballot clerk you have to show your ID to somebody else. Now, I will say that that is not the policy of the Douglas County Board of Elections. No one has ever been told to do that. To our knowledge, it has never happened before, but it happened in this instances; but to make sure it doesn't happen again, I would like to direct your attention to tab Number 4 of the packet. What the Board has done is implemented a new policy in writing that is going to be presented to everyone of your employees and poll workers in the future. It expressly says you are required to show your ID and be checked in by somebody else in the office. You can't check yourself in. That's going to be given to everyone in the future. And that is a proactive measure that the Board has taken in response to this investigation to assure that situation doesn't happen again, although, at the same time recognizing technically this really does not appear a violation of the statute. So for the uncertainty of the code section and whether it was a violation at all, but also because of the clear proactive steps that the Board has taken, we submit that there is no basis to find a violation and this issue should also be dismissed. The third issue was that there were technical violations in rejecting certain absentee ballot applications. We have not been able to review any of the suspects' applications because they are in the investigator's file. We have not been able to access that yet. We have not been able to see what the issues are, but we understand from the investigator's report and presentation there issues about leaving the date off the application where the code does say you are supposed to indicated the date it was received. Not listing the reason for rejection on the application. Assuming that that is correct and that is what happened, then those were technical errors, but we submit these are clerical errors an, again, to correct or to make sure that these issues do not happen again, I will direct your attention to Tab Numbers 5 and 6 in your packets, which are new policies that Board has, again, written and adopted in response to this investigation. What these policies provide is a check list of steps for their elections office employees to follow when they receive absentee applications. When you receive an absentee ballot application here is the procedure that should be followed: Number 1, write the date on top of application, that it was received; Number 2, compare the signature on the application with the signature on file and so on, down the list. If the ballot is rejected, it says you must list the reason for rejection on the application, send notice

to the individual who applied, and give them to new application. So what we submit to the board is that while if the investigator -- assuming the investigator's report is accurate, these were clerical errors, but to ensure that they won't happen again, we have adopted these policies. Because of that proactive stuff and the clerical nature of these errors, we submit this does not warrant any type of sanction and it should be appropriate to dismiss at this time. The last issue was that there was apparently an issue regard the publication of notice for the logic and accuracy testing. The issue, as I understand it, is that the notice in this case was published two days before the testing began and the code does require that the notice be published 5 days in advance. That was a mistake. I will say that the reason that happened was because the ballots, the electronic ballots that were being prepared by Kennesaw State University were not received by the elections office until 3 days before the testing was schedule to begin. As soon as they got the ballot they knew they could go forward with testing, they published as soon as possible. In hindsight we realize that was a mistake. In the future it won't happen again. We respectfully submit that this is again an instance of a regrettable violation, but a technical one and one that is not warranted, sanctions and we request that it be dismissed along with the others. I just close by recognizing, again, that the issues involved addressed by Mr. Quarterman were already resolved by the court and the lawsuit filed, dismissed on the merits, because it did not allege election violations. The investigator's report also indicates he did not find any violation, as well. And for those reasons we certainly ask that these charges be dismissed.

SECRETARY KEMP: Thank you, Mr. Cole. Any Questions for Mr. Baker and Mr. Cole?

(NO RESPONSE)

SECRETARY KEMP: Anyone else wishing to speak.

MR. QUARTERMAN: Since they brought this up about the lawsuit, may I just have one statement, please?

SECRETARY KEMP: No. Anyone else wishing to speak?

(NO RESPONSE)

SECRETARY KEMP: Okay. Any other questions question of the investigators from the board or anyone else?

MR. EVANS: Did you get a request for copies of the absentee ballot so they can be inspected to determine what the defects were?

MR. EVANS: The absentee ballot's?

MR. EVANS: Or the applications. I think that Counsel referred he could not speak to the technical deficiencies, because he -- it was in your file and my question is did they ask for or receive a copy.

MR. HARVEY: I spoke with Mr. Cole and I also spoke with Mr. Baker yesterday. And he did ask to see the file. I told him that our files are confidential until they are presented to the Board.

MR. EVANS: It is a little hard for them to respond just having been a lawyer under similar circumstances before to the technical defects without seeing a copy. So, we may want to think about, while I know there are certain confidentiality that attaches to the file itself, But if there is data in it, for example, you are presenting to the BOARD here are the technical errors and these documents. In order for them to have a meaningful opportunity to respond they probably need to see those documents.

SECRETARY KEMP: Anything else? Any thoughts on a motion? Any thoughts on the motion?

MR. EVANS: Well --

SECRETARY KEMP: Let me make sure no one else here responded on our list that wishes to speak that hasn't already.

(NO RESPONSE)

SECRETARY KEMP: All right, Mr. Evans.

MR. EVANS: Well, I would just say that obviously the content of statements made by elected officials either supporting or opposing a SPLOST, are matters that are beyond our jurisdiction, inevitably protected by the first amendment. But if someone thinks that someone makes a statement that is untrue or false, then the appropriate remedy is seek judicial relief. We would not have jurisdiction over that. As to allegations of bribery, the appropriate remedy is to contact the US Attorney's Office. They have a public integrity group and they have the resources, but more importantly, the jurisdiction to check that out. We would not have jurisdiction over that. I am a little concerned that we have what appear to be a number of people who are before us, who have either sent letters or appeared because they filled out the forms that they were directed to fill out. And so I feel -- I'm a little uncertain about that category of a claim, because we would need some indication that they were aware -- that they were aware that there was something amiss here. I can't say when I go in to vote that I don't do exactly what I am told by the poll workers, for a lot of reasons, but the most important, which is, my job is not to question what they are telling me to do. If they tell me to fill out form A, guess what, I fill out form (A). If they tell me to sign form (B), I sign form (B). I think it is a little hard to punish voters who do exactly what they are told by the election officials. So we need to sort that out. And I will come back to that in a moment. If the respondents are requesting additional time in order to review the documents to see the technical deficiencies, I don't think we had a choice but grant the continuance. I think it's very difficult for them to respond to deficiencies which that they have never seen. So, I think we need them to make the official request and we will address that. I note and

the chair who is the one who gets to make all these decisions. As to the notice issue, it sounds to me like we have an admitted violation. We will have to just figure out what the remedy is for not having publish it in the requisite time period. With all that said, it seems to me that we have three categories. We have the category of, basically, citizens who follow the directions of election officers, which we should address. We have -- whether or not we have a pending request for a continuance to get the data necessary to prepare an effective response. And then we have basically admitted violations, but with a proposal that rather than go to an administrative law judge, that there are corrective procedures that have been designed to address those and maybe those could all be included in a consent degree.

SECRETARY KEMP: Mr. Baker?

MR. BAKER: Mr. Secretary, I appreciate Mr. Evans's generous offer of continuance, but I don't really think that that would -- we know generally what the problems were and we appreciate the offer of a con continuance but if the board can make a decision at this time, we are already taken the steps necessary to correct whatever technical problems may have occurred. So we can see the actual documents, but we are still going to go forward with the changes and it would just delay the process. So thank you very much, but we appreciate the board's decision.

MR. EVANS: Is there any dispute that the individual voters followed the direction of election officials?

UNCLEAR: Mr. Evans, quite opposite. We had a couple of phone calls and a couple of emails were heard the same story after the fact, they did in fact follow the instructions. In one instance a voter went in and said he wanted to register to vote and was handed the absentee -- or the voter certificate. So in terms of this 16, if you are asking me my opinion, I believe that they followed the instructions that they were given.

SECRETARY KEMP: That the voters followed the instructions that they were given, not --

MR. EVANS: That the voters followed the instruction that they were given by the election officials.

SECRETARY KEMP: Okay. And that would be on our chart Numbers 5 through 21.

MR. WEBB: Mr. Brooks, isn't there one individual who attempted to vote twice?

MR. EVANS: Yes sir, there was one, Mr. Mesner, I believe, is the one that attempted to vote twice. So it would be Number 6 through 21.

MR. EVANS: Well, I would close the file as to everybody but the one person who was attempting to vote twice.

SECRETARY KEMP: That being a motion to close on document item the persons 6 through 20.

MR. EVANS: Yes. 6 through 21.

SECRETARY KEMP: Yes, I'm sorry, 6 through 21. Excuse me. 6 through 21. Are the members clear on that?

MR. MCIVER: For clarification would you repeat that.

MR. EVANS: Just to close as to 6 through 21. Everybody put the person (unclear).

SECRETARY KEMP: The 16 people that have been -- the stated violation was that they gave false information, filled out -- basically they were given the wrong forms. It think that is what we are saying.

MR. MCIVER: And it goes to those individuals.

MR. EVANS: I want to deal with people who, as I understand it and from what I have heard and what I have read, walked in and said, give me the forms and they filled out the forms they were given.

SECRETARY KEMP: Motion by Evans.

MR. MCIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any or discussion on these individuals?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of dismissing these folks, signify saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: A opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay. That motion carries.

MR. EVANS: I would move to bind over Mr. Misener just because we have to treat double voting as a different category in order to determine whether or not there any scienter. In fact, there was an attempt to vote two places.

SECRETARY KEMP: We got a motion to bind over Mr. Misener to the AG's office. Do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of binding Mr. Misener over, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign. That motion carries.

MR. EVANS: As to the county, to me, they're given the low threshold to deal with binding it over for the Attorney General's Office is so low, and given that there are clearly issues of fact. Issues is relating to the notations, the technical errors and the admitted violation on the notice. I would move that we bind that over. I would expect, given the corrective actions outlined in the materials we have been given that the Attorney general would moved toward a consent decree of some kind that would give teeth to those steps. I won't be here, but I would say for this position that the Board should reserve judgement as to whether or not any financial penalty, just depending on the outcome of what the AB finds as the start to move toward the process. I would move we bind those over.

SECRETARY KEMP: Okay. We have got a motion to bind -- I guess it would be the County, Ms. Fulton, and Ms. Williams over to the AG's Office, and Maddox.

MR. MCIVER: I'll second.

SECRETARY KEMP: We've got a motion by Mr. Evans an a second by Mr. McIver. Any or discussion?

MR. WEBB: Mr. Brooks, with regard to Ms. Williams did she sign as assisting?

MR. EVANS: No.

MR. WEBB: She did not. Can you remind me of the requirements for returning absentee ballots to the county, how the code requires those ballots to be returned.

MR. EVANS: You are allowed, a person who lives in the household, or a certain relative, to take those. If you are unable to return them or mail them to them. The assistance part of it, the ballot would be sign as having assisted and then that person or someone in that capacity could return that. In this particular case, the absentee ballot application was filled out by Ms. Williams, but there was not assistance the ballot itself, given that, that ballot should have been mailed or returned by the elector.

MR. WEBB: Ms. Williams, in this case, returned to ballot, brought them to the office with her?

MR. EVANS: Yes.

NEW SPEAKER: May I address?

SECRETARY KEMP: Yes.

NEW SPEAKER: What the affidavits say is that -- what the statute says is that a disabled elector may ask their daughter or niece to return the ballots for them and the affidavit saying they did, because they were disabled they did not feel like transferring the ballot, so they asked Ms. Williams to do that. So that is why that was done. And we felt that it was appropriate. One point of clarification, referring to binding any issues over, the distinction between the four issues you discussed which ones might be bound over and which might not. For example, if you bind over Ms. Williams on the technical issues on the absentee ballot applications but not with respect the other issues (Inaudible).

MR. EVANS: I think we are now sufficiently -- there are so many intertwined facts here that we are better off just letting the AG sort that out for us.

MR. MCIVER: The record should reflect how impress I am with the efforts of the County, for counsel to bring the corrective actions. Therefore I would be applying the Evans Principle in this case. That would be the guidance I would give the Attorney General's Office. Even though we are binding it over, there is a great deal of work that has already been done.

SECRETARY KEMP: Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: All right. We have got a motion by Mr. Evans and I believe Mr. McIver, you second it to bind, I guess it would be items 1 through 4, the County, Ms. Fulton, Ms. Williams, and Ms. Maddox over for further investigation to the Attorney General's Office.

MR. MCIVER: Correct.

SECRETARY KEMP: Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay. That will be bound over. We are going to break for lunch. We will start back at 2:15. We will see y'all back at 2:15.

(LUNCHEON RECESS)

SECRETARY KEMP: We'll go back into the regular board meeting.

MR. MCIVER: I so move.

MR. EVANS: Second.

SECRETARY KEMP: Motion and second. All in favor say, Aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carriers.

Let the record show that Mr. Webb will be joining us in a minute. So he is not with us right now.

Case No. 2010-000021.

MR. BROOKS: Case No. 2010-000021 is the City of DeSoto in Sumpter County. It involved a March 16, 2010 special election. In this particular case, the investigator who was assigned the monitoring duties for that particular area received a phone call from the officials for the city of DeSoto indicating they were hoping to have the new city hall open where voting would be held in the precinct there. There was some conversation that city hall would not be open at that time for them to have the election there. The investigator went down to monitor the election. When he got there he discovered the precinct was in a trailer out in the grassy area where the parking lot was. There was no handicapped access for the parking spaces there. There were no ramps for access for the handicapped workers there. The plan sort of was if someone showed up that was handicapped, the city workers would lift them up into a sort of platform there, and let them go in and try to vote. That didn't happen. Some people showed up that were handicapped and could not go up. One of them was given a provisional ballot to vote even though there wasn't an emergency for that particular ballot. Then another voter was given a provisional ballot and allowed to vote the provisional ballot from their car in the parking lot.

SECRETARY KEMP: Any questions for Mr. Brooks? Is there anyone here who wish to speak on this case?

MS. RATLIFF: Sherry Ratliff, 627 Highway Sumpter County. I was contracted to conduct the DeSoto election. I don't deny the allegations that have been presented, but I would like to give a little bit of background. DeSoto, through a Splost referendum, was to get a new city hall. We were probably three quarters of the way into it when DeSoto contracted with us to conduct the election. That came about because they had not been conducting elections, period, for a number of years. Got with their county attorney, and it was really a rather rushed up kind of election. We had elections for all seats to sort of get them started and get them going back the way they needed to be doing in conducting elections. I did discuss it with county officials, county administration. It was anticipated that the new facility would be complete. The new facility is absolutely handicapped accessible. That did not happen because of inclement weather. It rained, and it rained last year. Had we known prior to putting -- and when I say we, the county -- we could have done a better job of setting up the Monitura (unclear) Building. When the Monitura Building was put there, we were not quite ready to conduct the elections. With the anticipation of the building being completed, we just opted to go at it a little bit different than the expense of building a ramp. The building was about this high off the ground. The ramp would have been extensive. We sort of hated to do that knowing that the building was to be completed. Well it just sort of happened about two weeks after the election the building was complete. If it had not been for the rain, we would have been completed it. To my knowledge, I only aware of one provisional voter. She was born in 1922 and was not able to go up the steps. The poll workers, at my instruction, did take a provisional ballot out. My thought process was that it was better for her to vote in some manner than to be turned away. I am not aware of what other voter there was. Yes, in the opening remarks there was a conversation prior to the election where I did inform the monitor that I was coming. I think the day before the election the monitors usually call. We were aware we were not ADA compliant. We had looked at several options. We really were not of the option -- one was mentioned by the county administration maybe we could get the person in the polling place in some manner. That was not feasible the way the steps were made. So we decided to take a provisional ballot. While I am aware that's not the correct procedure, that was to only way to allow the voter to vote.

SECRETARY KEMP: Thank you. Any questions? Anyone else wish to speak on this case?

(NO RESPONSE):

SECRETARY KEMP: Hearing none, any question to move forward?

MR. EVANS: I move to refer it over. The reason we have (unclear) to have to say to counties, yes, you can make the conscious decision. But if you are not going to spend the money, or if there is a different way to do it, you can't do it without costs. Because otherwise every county, after this says, for this particular election it is a bit of a hassle or whatever. And they just don't do it. There has to be consequences. But for purposes of today, I just move that we bind it over.

MR. MCIVER: I'll second.

SECRETARY KEMP: Motion to second. Any other discussion?

MR. MCIVER: I would commend the officials in this particular context for at least making sure this person in the electorate had a chance to vote. We are all about all inclusive. Everybody who is eligible (unclear) this required usual circumstances. I was in the Air Force, and I remember the motto was improvise and overcome. That was what it was all about. I commend you for that. It is ashame our code is so strict. But Mr. Evans is right. We are zero tolerance. Hopefully, that will be reflected in the ultimate decision of the Board. The fact that you did what was necessary to make sure the voter had a chance to vote.

SECRETARY KEMP: Mr. Webb, do you want to vote or do you want to --

MR. WEBB: I am going to vote.

SECRETARY KEMP: Let the record show Mr. Webb is back with us. We have a motion and a second to bind it over to AG.

All in favor say Aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Aye. Opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: We will bound that over. Next case 2010-000023.

MR. BROOKS: Yes, this 2010-23, City of Bowman. One of the allegations involved the election in the City of Bowman, November 8th, 2005. The other two elections were the November 3rd, 2009 general municipal election.

SECRETARY KEMP: Mr. Brooks, before you get going, I just wanted to recognize Max Woods who is one of middle Georgia's finest. And he is doing a great job for us in Atlanta now as the chief judge of OSA. Stand up for us, Judge. Glad you are here with us today. Looking forward to working with you. Appreciate you stopping by.

MR. BROOKS: There were three separate elections. One in 2005, one in 2009, December 1, 2009, involving the City of Bowman. There were five separate allegations in this particular complaint, and there was some additional findings as well. In allegation Number 1 Richard Pickering had moved from the City of Bowman in 2004. He was allowed to vote in the 2009 municipal election even though he had moved in 2004. There was a conversation between he and Pat Winslet who was the city clerk and election superintendent. Ms. Winslet had knowledge that he had moved in 2004 and no longer lived in the city of Bowman.

That conversation was that he could vote in that particular election. Ms. Winslet called the county registra to get directions in terms of whether or not he was eligible to vote and was referred to the Code Section 218 in reference to when a person moves out the municipality or moves out the county. She allowed him to vote knowing that he was not a resident of the city of Bowman. Allegation 2 is the same allegation with Pamela Picket who was Richard Picket's wife. In Allegations 4 Pat Winslet, city clerk for city of Bowman actually solicited Richard and Pamela to vote in that election knowing that they were not qualified to vote in that particular election. Allegation 4 was that the incorrect qualifying dates for the city of Bowman's mayor's race was printed in the Alberton Star which is the legal organ for that county. The investigation determined that the newspaper received the dates for the qualifying period for the city of Bowman, and it was another election in the county. They assumed all of the dates were going to be the same that's why the incorrect dates were published. Allegation 5 was that a notice of candidacy and affidavit that was submitted by Wilbur Williams in September, 2005, was not his signature. And it was not signed by him. Interviewed Mr. Williams, and we also interviewed the notary public who notarized that document. She said that he signed the document in front of her. He said that is his signature. So that allegation was unfounded. During the investigation, during the advanced voting application were requested and in looking at those it was found that during the absentee ballot period, they were using the voter certificates that you use on election day and not the absentee ballot application that you normally use through that process. So the entire process of the absentee ballots application was not followed.

SECRETARY KEMP: Any questions for Mr. Brooks? Anyone else wishing to speak on this case? State your name and address for the record.

MR. WASSERMAN: My name is Harvey Wasserman. I am an attorney, and my office is 1130 Hall Avenue, Franklin County. The elections I'm concerned with are in 2009. The general election and the run off that occurred in December. The city of Bowman is a very small town in Elbert County. Ms. Winslet was hired as the city clerk in 2008. Mr. Pickering has been a city employee for over 20 years. They came to know each other solely through their work relationship not personal or anything like that. This was the very first election that Ms. Winslet was in charge of. In fact, this was the first election ever where the city of Bowman officials ran the election. Prior to this election the registra and probate court of Elbert County had always conducted the elections. So that was the status of things when the November election started. Prior to the November elections, Ms. Winslet was given a list of the potential eligible voters in the city. There were some local issues on the ballot as well. In reviewing that, she discovered at least a half dozen people who she knew from her personal information no longer lived in the city but was still listed on the rolls of eligible voters. She tried to call her liaison at the board of elections, Ms. Winfred. She was referred then to speak to the registra in Elbert County who was Charlotte Woods who had experience in conducting elections. Ms. Winslet spoke to Ms. Woods and said, I have these people on the voter polls who are still showing Elbert, Bowman city addresses. But I know they don't live there. What do I do. She was advised by Ms. Ward that if they had not registered to vote anywhere

else up until that time that they were allowed to vote one more time in the city of Bowman provided they filled out the paperwork and put their new addresses on there so their registration and precinct areas could be properly changed. That was the advice she got from somebody, an officer, conducting these type of elections up until this time. Based on that, a number of people who were on the list no longer lived there did, in fact, vote in the general election and that was Mr. and Ms. (unclear). And in the run off elections (unclear) Mr. and Ms. Pickering (unclear) and Arthur and Jennifer Lane also voted pursuant to the advice that Ms. Wood had given. It's a small town and everybody knows everybody. The contested local elections was for the mayor and some city council positions. One of the most contested ones was between Scott Harpold and Tony Weber. I think everybody would admit or acknowledge that (unclear) they voted probably for Mr. Harpold and the Pickerings voted for Mr. Weber. At any rate after the first election -- and the Pickerings did not vote in the general election -- there was a tie between Mr. Weber and Mr. Harpold and that resulted in a run off election. And (unclear) advanced voting in the city of Bowman as well. At some point during the advanced voting period, Mr. Pickering and Ms. Winslet was outside of city hall and smoking a cigarette and politics came up and Richard said, I wish I could still vote in the election. And Ms. (unclear) said, I think you can. I have already spoken to Ms. Ward about this regarding the general election. She told me just what I told you that if (unclear) registered to vote anywhere else you could vote one time still in Bowman as long as you changed your address. She said let me double check to make sure. She called Charlotte Ward the same day or the following day, again, got confirmation that they could in fact vote. Ms. Winslet then advised Mr. Pickering of that, and he and his wife subsequently voted the very next day. Mr. Harpold lost the election in the run off. One of the complainants in this was brought up in to the city council's attention and to the mayor's attention. She attempted to fire both these people from their positions. City council took information, rescinded those terminations, and they are still employed there. No complaints have ever been brought to the Board considering the voting of the Lanes (unclear) even though that has also been brought to the attention of the mayor who is also one of the complainants in this case. And both point out (unclear) general platform for the ticket with Mr. Harpold in the election. The allegations in this case is one, two and three, all talk about knowingly voting fraudulently or knowingly voting when you couldn't. I think the evidence is clear in this case that there was no fraud. There was no knowing wrongful conduct. There was no specific intent to commit voter violations. These types of offenses are not none intent crimes like speeding. You go over the speed limit whether you intend to or not, you're guilty. These types of allegations require knowledge and require a specific intent to do it. With respect to Mr. Pickering, he was told by election officials that he could vote. And he voted based on the advice he had gotten from Ms. Winslet through Ms. Ward. I (unclear) one of the other cases that he wasn't going to hold a voter responsible when he was relying on information of a voting official that was reasonably entitled to rely on. Same is for his wife. They never intended to vote or claimed to vote until they were told they could. I don't think there is any basis for establishing a knowing violation of their ineligibility to vote. As far as the allegation concerning a conspiracy, there is just no evidence. They had a simple conversation

(unclear) I already relayed to you what that conversation was. Ms. Winslet also let other people vote like I mentioned, the Lanes and the (unclear) speculation most likely vote for the other candidate and that Mr. Pickering voted for (unclear). So I don't suppose there could be any type of conspiracy when people on both sides of the issue were allowed to vote. This is the first election Ms. Winslet had had about a week of training in April of '09 through the board of elections. This issue had not been really covered (unclear) both in great detail. As (unclear) oral presentation she learned when she was confronted with the issue, she called the board of elections and referred it back to Ms. Ward who gave her the advice she did. There is no deliberate, intentional, wrongful conduct here. It was an honest mistake. It's never going to happen again. We are prepared to sign a consent or memorandum of understanding as to what constitutes an eligible voter in the city of Bowman. But I think both of these individuals had a reasonable case for justifiably relying on the advice that Charlotte Ward had given. The fact she gave that advice, Ms. Ward herself confirmed to one or more city council members when this issue came up. I think Mr. Ken Rice, one of the city council, members acknowledged in a city council meeting that he had, in fact, personally spoken to Ms. Ward. She confirmed to him that she had gave the advice to Ms. Winslet (unclear). She also acknowledged that in a newspaper article that she was quoted as saying that she confirmed giving this advice to Ms. Winslet. I have that newspapers article. I want to make a motion to admit that as part of the record.

SECRETARY KEMP: Motion to accept the newspaper article. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

MR. WASSERMAN: It's on page 16A, October 27, 2010.

SECRETARY KEMP: Motion to accept carries. If you can wrap on up for us.

MR. WASSERMAN: With respect to the last issue, I am not going address Allegations 4 and 5 (unclear) concern the city as the respondent. With respect to the additional findings, I don't know if that is actually an issue before the Board concerning the use of an absentee ballot. All I can tell you is they were having advanced voting until 21 days before the run off election. They did use the standard voting format, the standard voting certificate. I understand when you read the law, it appears that absentee ballots are supposed to be used for advanced voting. But upon my inquiry, both at the Elbert County and the adjoining counties of Hart County and where I live in Franklin County, when they do advanced voting, they just use the normal voter certificate method for establishing voting and allow people to vote. Again, Ms. Winslet based her procedure on what other officials conducting elections in some of the surrounding counties were doing. Again, I don't think there was any deliberate wrongdoing there. Again we would certainly entertain, (unclear). memorandum of understanding as to what proper ballots were used.

SECRETARY KEMP: Any questions for Mr. Wasserman? Thank you. Anyone

else wishing to speak on this matter?

MR. KIDD: Yes, sir. Mr. Secretary, Commissioners, I appreciate the opportunity to speak to y'all today. My name is Doug Kidd, K-I-D-D. I am city attorney for the City of Bowman. My office address is 13033 Jones Street. Lavonia, L-A-V-O-N-I-A, Georgia. I represent the City of Bowman. I was appointed to that position in January of 2010. So all the facts in the complaint predate my tenure. So I don't have any direct knowledge of those facts, however, I can tell you what the city did once it was alerted to the facts in this complaint and tell you what happened at that point. Mr. Wasserman is correct. The 2009 election was the first election in which Bowman was responsible for registering and administering the elect hire Pat Winslet, the city clerk and election superintendent and sent her to the necessary required training to administer elections. It had policies and guidelines of how to administer the elections in which Ms. Winslet was aware of. She administered the election in 2009. The city got notice of the allegations in this complaints in 2010. Once the city council got notice of the allegations, it suspended the duties of Ms. Winslet for the election supervising. She still on as the city clerk and handles administrative stuff. But everything that deals with election supervising, she no longer has a hand in. The city council contracted Elbert County probate, Judge Susan Sexton, to handle election duties. We have an election in March, a special election, where Ms. Sexton is administering all those duties as well. I think the only allegations in the complaint that might have to do with the city proper are the Allegations 4 and Allegations 5. And, I believe, the investigation done by your office seem to clear the city of any wrongdoing in that respect. In Allegation 4, the allegation notice was sent properly to the newspaper. It appears newspaper was the one that mixed up the dates and the wrong ad was published. In Allegation 5, it looks there was no wrongdoing whatsoever. It looks like the correct affidavit was submitted. Allegations 1 through 3, the city really has no position on the factual findings of this case. There city does not know what happened. It just knows it hired Ms. Winslet to do a job, sent her to the necessary training, had policies and procedures in place at the time. There (unclear) any allegations that come up since them. If any of y'all have any questions, I would be happen to answer them. But the city asked that it be dismissed as a respondent in this case.

SECRETARY KEMP: Thank you, Mr. Kidd, any questions? Mr. McIver.

MR. MCIVER: Mr. Kidd, with respect to the Allegation 4, once it was determined an incorrect date had been published in the legal organ for the county, was any effort made to have a correction achieved through print?

MR. KIDD: My understanding of Allegation 4 was that the date was incorrectly published in newspaper, and it was not called by anyone at the City at the time. That's my understanding -- all right. I am corrected. Ms. Winslet apparently corrected the newspaper and corrections was -- so she corrected them the next day. So it appears that the city clerk notified the newspaper because the newspaper is a weekly publication, it couldn't publish in time. They alerted all the people that they could as far as businesses and folks in the community.

MR. MCIVER: That makes a difference as you can tell. There was an attempt to correct the mistake.

MR. KIDD: Yes, sir.

SECRETARY KEMP: Anything else for Mr. Kidd? Thank you. Anyone else wishing to speak?

MAYOR JOHNSON: Mr. Secretary and Board members thank you for allowing me this opportunity the speak. My name is Pamela Johnson, and I am the mayor of the City of Bowman.

SECRETARY KEMP: Mayor, give us the address, if you don't mind, for the record.

MAYOR JOHNSON: My mailing address is P.O. Box 54. My street address is 133 East Railroad Street, Bowman, Georgia 30624. To correct a couple things that were stated in this hearing, I did not run on the ticket with anyone when I ran for mayor. It's a small town, and I do know Mr. Harpold. I have known Mr. Harpold for a couple of years. I did not run on a ticket with anyone or support anyone in particular. However, I also want to say, I did terminate these two employees upon learning of this simply because of no tolerance. However, the council voted to re-instate them pending the outcome of these allegations. So, it is not settled at all. To say it's over with regard to the City of Bowman that is not the case. So, also with regard to political activity occurring on city property at the time -- and I remember this because I was running for office -- the prior mayor made it a point to let everyone know, including, I know the clerk was there, that there was to be no political activity at all in city the government or on city property. So to have this discussion going on on city property that also makes you question. The city of Bowman, now we have additional expense, our citizens have been -- there are couple of things that are going on since this has come out. First our citizens are questioning the integrity of the voting process. This is a privilege afforded to many Americans. And to question that we need to re-establish the confident that the citizens of Bowman have in the voting process there. So I do ask that you bind this over. In addition to the lost of confidence, the second thing, we have contracted with the probate judge in Elbert County to handle, we have a special election coming up in March. And we contracted, but we also those expenses that we have not had before. I am asking just I am asking that you turn it over or bind it over too because of the seriousness of the allegation, and they are two of which are city employees and they to me are held to a higher standard. You would expect better and higher behavior. So, thank you.

SECRETARY KEMP: Thank you, Mayor.

Any questions? Mr. McIver.

MR. MCIVER: So the status of these two employees is that they were terminated and the city council has re-instated them conditionally upon the outcome of this

matter.

MAYOR JOHNSON: I terminated them, and they were out of work approximately two weeks.

SECRETARY KEMP: State your name again for the record.

MR. KIDD: Doug Kidd, city attorney of Bowman. The city has a personnel policy manual with all the employees that gives the employee's certain due process rights. At the time, it was my opinion that those due process rights were not adhered to. So I recommend to the city council to re-instate them. We never touched the substantive issue of anything that happened. It was more, did she go through the proper procedures to relieve them of their job duties. The council said they were willing to re-instate them until after this hearing. So that's why that happened.

MAYOR JOHNSON: So we are waiting to hear the outcome of this particular process.

SECRETARY KEMP: Thank you, Your Honor. Any other questions?

MR. EVANS: Why would 21-2-216(a) and 21-2-216(f) not apply? Which are basically strict liability offenses. We call them the red light. It does matter why you ran the red, the fact that you ran the red light is what we have to deal with. It struck me that those two code sections --

MR. WASSERMAN: Commissioner, can you restate that statute?

MR. EVANS: Sure, 21-2-216(a), 21-2-216(f). **MR. MCIVER:** Mr. Wasserman, I have an extra copy of the code if you would like them.

MR. EVANS: Does it apply?

MR. BROOKS: When you move out the municipality in 2004 and five years later vote, they would have lost their qualifications to vote in that election.

MR. EVANS: Right. And I think we have consistently applied that. You also have a duty under F that once you move, you actually remove yourself from voting and neither contain a (unclear) requirement. There is no knowledge requirement. There is no nothing. Did anybody on our staff talk to Charlotte Ward?

MR. BROOKS: Yes, sir. Investigator Marlow talked to Ms. Ward. My understanding is that Ms. Ward said that she referred her to Title 21-2-218 in terms of the requirements of moving and being allowed to vote again. If I remember correctly her comment to us was that she did not offer any advice as to what to do.

MR. EVANS: Not that newspapers are very reliable sources I've discovered during the course of my career, but this says that Charlotte Ward confirmed that she said, if Pickering had not changed his address after moving out of Bowman then he could

vote one more time. It strikes me we have clear violations. It seems to me we have clear fact issues that need to get resolved. I wonder whether or not Charlotte Ward should also be a respondent. Because if it turns out that what we are hearing today is true, then she will have been guilty of a violation. If it turns out that what we heard today is not true, then we do have a conspiracy to commit election fraud which is pretty serious. Either way we have a violation of 21-2-216. My question for the lawyers is, procedurally, what do we need to do? It would strike me since we did not cite the code section, we may need to re-notice the case and include Charlotte Ward as a respondent. I know it's easy for me to volunteer your time since I am not going to be here for that meeting. It sounds like to me this is a pretty heavily lawyered case. We are going to want to make sure that we procedurally have our I's dotted and our T's crossed.

MR. MCIVER: Mr. Evans, it occurs to me that Mr. Wasserman and perhaps others could waive that noticed of the case.

MR. EVANS: That's true.

MR. MCIVER: Which would allow this case to go forward. I hear, her Honor and others, asking that this be brought to conclusion. So rather than go through that process, I think we should extend to them the opportunity to waive.

MR. EVANS: Charlotte Ward would still have to do that.

MR. WEBB: I agree. I am trying to understand why the city is, I understand the Allegations 4 and 5 there is no evidence of any wrongdoing on their part, but Ms. Ward, she is the county registra. Excuse me. That is why. Never mind. Withdraw my question.

MR. EVANS: So I would suggest that we re-notice it and include these additional statutory constructions, add Ms. Ward as a respondent. Advise the parties who are here today that they need not re-appear unless they want to, unless they have additional information. Then act on it at that time. I think there are some pretty troubling facts here. I would just re-notice the whole thing. I would make a motion we re-notice it with Charlotte Ward as a respondent and with the addition of 21-2-216 a and f. Then I think when do you that you are going to discovery there are a couple of SEB rules that would apply to Charlotte Ward that deal with information given about the election process.

MR. WEBB: Mr. Evans, does the county registra have an obligation to advise the city?

MR. EVANS: No, but if you give advice you got to be right. That's the key. You can always pass it to the Secretary of State's Office which is what we many times encourage them to do. But if you -- here, I will give one of my first cases was the Atkinson County case where we had none citizens who called up the county and said, can I vote. I said if you have a driver's license you can which was clearly wrong. We absolutely dropped the hammer. Because just the most basic referral to

the Code will tell you under the sections I just gave, 21-2-216, that you cannot vote in an election when you don't live in the municipality.

SECRETARY KEMP: Mr. Evans has got a motion. Do we have second?

MR. WEBB: Second.

SECRETARY KEMP: Go ahead and discuss Mr. Wasserman, Mr. Kidd.

MR. WASSERMAN: We want to be included on notice. I anticipate my clients will want to be here for what Ms. Ward says and to possibly respond (unclear).

SECRETARY KEMP: Absolutely. Mr. Kidd.

MR. KIDD: Mr. Secretary, I just wanted some clarification on the allegations against the city. Have they been dismissed or --

MR. EVANS: No, I think you'll have one more chance.

MR. KIDD: May I request for the new allegations when they come to specifically list the city in which the duties were breached. The first allegations don't mention the city proper at all. Thank you very much.

SECRETARY KEMP: Any other discussions? Is there anyone else that wishes to speak on this matter that have not spoken yet? Any other discussions by the Board?

We have motion and a second?

NEW SPEAKER: May I speak.

SECRETARY KEMP: If you would state your name and address for the record.

MR. HARPOLD: My name is Scott Harpold. I live at 189 West Railroad Street, Bowman, Georgia 30624. I was one of the complainants in this matter. I came in late. I apologize. I am going to nursing school. I just got through with my clinicals. I am sorry I missed what you discussed so far. I wanted to state, it may have already been stated that when I filed complaint, I found it was obvious Richard had already lived in the city for six years. I was one of the people that was running in that election. There had been a lot of rumors spread around and supposedly the reason why these folks voted was they thought I was going to fire them or I was going to do this. I don't know the hearsay, but it was very obvious you had to live in the city. The code enforcement officer for Bowman and the -- our code specifically states if you don't live in the city you can't vote. It also cost the city thousands of dollars to have the runoff election and the changes it may have made. Those are the points I want to make. And I appreciate your time.

SECRETARY KEMP: Okay. Anyone else wishing to speak on this case?

(NO RESPONSE):

SECRETARY KEMP: Hearing none we have a motion and a second. Any other discussion by the Board.

(NO RESPONSE):

SECRETARY KEMP: Hearing none, all in favor of Mr. Evans' motion, signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. Case 2010, Number 27, Jefferson County.

MR. BROOKS: Yes, sir. This is Case 2010-000027, Jefferson County. There was no election involved in this particular case. The Secretary of State's Office received a complaint on April 12th of 2010. The allegation in this case was the Jefferson County Board of Registrars was not conducting their monthly meetings as required by the statute. The investigation determined that the last known monthly meeting was held in December of 2008. In addition, there was a board seat that had been vacated that had not been filled by the superior court judge. He had not been notified of the vacancy. There was an unusually high turn of the board members, training being given those things. I think the meetings just fell to the wayside. My understanding is they submitted a plan of correction that addresses the concerns to have the monthly meetings and comply with statutes.

SECRETARY KEMP: Any questions for Mr. Brooks? **MR. MCIVER:** Yes. What is your recommendation?

MR. BROOKS: We would recommend that it be bound over.

MR. EVANS: Do we have the plan?

SECRETARY KEMP: While we are getting that, anyone else wish to speak in regards to this case?

Anybody here from Jefferson County?

MR. BROOKS: If I could just add, in the investigative report it says Mr. Thomas has indicated he was going to meet with the county attorney, county administrators as soon as possible to develop a correction plan. I don't think we actually have the plan.

MR. EVANS: Let's see if we can motivate them. I move we bind it over.

SECRETARY KEMP: We need a motion to accept the plan into the proceedings.

MR. MCIVER: So moved.

SECRETARY KEMP: Mr. McIver moves. Second?

MR. WEBB: Second.

SECRETARY KEMP: All in favor of accepting the plan, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

MR. EVANS: I move we bind it over.

SECRETARY KEMP: Got a motion to bind this case over to the Attorney General's Office. We have a second?

MR. WEBB: A Motion and a second.

SECRETARY KEMP: Motion and a second.

Any other discussion by the Board?

Hearing none, all in favor of binding it over, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

2010-000029. The City of Washington.

MR. BROOKS: This is 2010-000029 involving the City of Washington, Wilkes County. It was November 3rd, 2009 municipal election. The allegation in this complaint was that the respondent, Ms. Wilbur, had voted out of precinct had voted in November 3rd election. Conducting the investigation we determined that Ms. Wilbur contacted the Wilkes County deputy registrar on October 16th. Made inquiry about her registration vote whether she was still registered. She discovered she was registered to vote and the deputy registrar asked her about her current address. At that point it was discovered that she had moved from one precinct to

another precinct but still inside the city limits of Washington. The deputy registrar informed her she would not be eligible to vote in that election. Made a note to herself to go back to check to see if she did attempt to vote or vote in the election. She went back and checked in March of 2010 and discovered that she had voted in that election and had used her old address and voted in her old precinct. When she filled it out by putting that on there, she entered fraudulent information on the voter certificate. But she should have been allowed to vote and just simple filled out a change of address for when she went in to vote.

SECRETARY KEMP: Any questions for Mr. Brooks?

MR. EVANS: Wasn't 21-2-216 applied here, too?

MR. BROOKS: Mr. Evans, I am not sure. She remained eligible to vote. She simply moved from one precinct to another precinct inside the municipality. She maintained her qualification. She was eligible to vote in the election.

MR. EVANS: But did she vote in the right precinct?

MR. BROOKS: No, sir.

MR. MCIVER: No, similar question is did she put inaccurate information down?

MR. BROOKS: Yes, sir, she did.

MR. MCIVER: You are advising us, she did.

MR. BROOKS: Yes, sir.

MR. MCIVER: That to me is a 216 violation. I assume she is an adult and all the rest --

MR. EVANS: I vote we bind it over.

SECRETARY KEMP: Anybody else wishing to speak on this case? City, county?

You want re-state that motion?

MR. EVANS: I vote to send it over to the Attorney General's Office for prosecution.

SECRETARY KEMP: Got a motion to refer to the AG.

Got a second?

MR. MCIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any other discussion?

(NO RESPONSE):

SECRETARY KEMP: Hearing none, all in favor of binding over please say aye?

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

2010-000044. Screven County.

MR. BROOKS: Yes, sir. This involved the July 20th, 2010 primary election. The allegations in this particular case was that the Precinct 11 at the Jackson Fire Station Screven County was not open at 7:00 as required by law. The investigation determined the poll manager arrived at precinct at 6:08 a.m. The poll worker arrived at 6:30. Assistant poll manager who had the express polls did not arrive until 6:55 a.m. They had some issues getting the express poll up and running and operating. Electors were arriving to vote and the precinct wasn't operational. Three of the electors were offered provisional ballots and they voted those ballots, but the others left and stated they would come back later once they got up and running. The precinct actually was up and running and operational at 7:55 a.m. Investigator arrived at the precinct at 9:00 and discovered that there were some irregularity with the signage that was posted and that the oaths of office had not been signed or administered.

SECRETARY KEMP: Any questions for Ms. Brooks?

MS. BROWN: Good afternoon. My name is Debbie Brown and my address is 216 Mimms Road Savanna, Georgia 30467. I am the judge of probate court and the superintendent of elections for Screven County. I am here today along with my poll manager (unclear). We are here today to respond to any questions that you may have that occurred on election day. I want you to know that we realize the serious nature of this incident, and we went to explain the steps to assure you that things will not happen like this again. We will glad to defer to any questions that you might have. Thank you.

SECRETARY KEMP: Thank you, Judge, any questions? Have you all submitted to us any steps that you have taken? You want to explain what you have done?

JUDGE BROWN: What we are doing is actually doing more training than we usually do. We usually do the training right before we have the election. We are going to do more training. I always emphasize to them always be there at 6:00 so you will have plenty enough time to get -- hour before the polls open -- so you can get everything together and you won't be in a rush. This lady was actually the poll manager that I appointed. I actually had someone call in the day before that was

actually was ill and had a stroke. She was in the hospital. So I had to get someone else to come and fill in for her. When the assistant poll manager came by to pick up her things -- my poll manager that day could not come because out of town with a doctor's appointment. So I asked my assistant poll manager to come by. The assistant poll manager had never worked in the precinct before. I told her the directions. I told her make sure that you go to precinct the night before where you know where it is. But she got lost and there was actually some signs that had been torn down where somebody had stole signs. She got lost and she was late getting there. That is why the polls were late getting open. I apologize for that.

SECRETARY KEMP: Any other questions for the Judge? Thank you, Judge. Anyone else wishing to speak?

JUDGE BROWN: I think the poll manager would like to say saying.

MS. FREELAND: Jewelle Freeland. 1527 Parker Road, Savanna, Georgia 30467. The things that occurred were just one of those days. The assistant manager did not get there on time. I believe in your accusations you said I was there 6:08 that was not correct. I had been working a poll person for seven years. I have also gotten there before 6:00. The person who finally came with the information, the bag with all the information in it, we scrambled very quickly to get the polls up, the machines open. The doors were already open. We scrambled to get the machines up and running. And discovered that there was where things, items missing from the bag. As soon we realized that, we called Judge Brown and she came and within ten minutes to give us the information we that we needed. I notified Judge Brown at about 6:08 that no one had arrived but me. And then I called her later and told her that the another worker had come at 6:30. We were all frantic about where this third person with the bag happened to be. So that's what has happened.

SECRETARY KEMP: Any questions?

MR. MCIVER: I am the Board member that asked about impact. Any chance of people were denied the right and opportunity to vote? I know some were turned away early in the process?

MS. FREELAND: No one was denied the right to vote. The door was open at 7:00. As soon as we realized that we were not going to be able to get the polls -- the polls actually open and working -- we offered the provisional voting. I find it interesting that the person that was first there came back. He was the last person to vote that day. He came back. There were three people who did vote provisionally, and there were two people who said I will come back later, and they did vote.

MR. MCIVER: So to the best of your understanding everybody that intended to vote had the opportunity and or did vote?

MS. FREELAND: Yes, sir.

MR. MCIVER: Thank you.

SECRETARY KEMP: Any other questions? Any anyone else wishing to speak.

MR. WEBB: Mr. Secretary, I would like to make a comment from the facts. That it appears that the assistance poll manager arrived at 6:55, and then the precinct was operational at 7:55 which is an hour. So it just stresses the importance of being there by 6:00. Even if you had everything at 6:00, it takes nearly an hour to set up.

MS. FREELAND: Right. It is possible that I made a mistake when I said what time the polls were actually open because I don't have on a watch. We don't have our cell phones on around, and the computers would have been open with the time. But they were not and we finally got things going.

MR. WEBB: Thank you.

SECRETARY KEMP: Any other discussion by the Board, or motion?

MR. EVANS: We have a violation. The only question is the remedy. I don't think there is any dispute about the violation itself?

SECRETARY KEMP: Yes, sir. Judge?

JUDGE BROWN: I would also like to say the assistant poll manager is no longer with me anymore.

SECRETARY KEMP: I think that's helpful for us to note things like that. I know there are things that happen out there, but this was just one of those days. Even if it is, you still got to make it happen. I think the public expects us to have the polls open, to be ready and if we are not we need, we need to be taking every measure within our power to get those open and remedy the situation. So I appreciate y'all being here today and letting us know what is going on. But I think it's a lesson for even ever our staff as well as everybody. We have always got to be prepared for, what if this happens.

MR. MCIVER: I will make a motion in this case. I mean no disrespect, but this is the classic dog ate my homework situation. And we have a zero tolerance aboard and have been for a long. So I move to bind it over.

SECRETARY KEMP: Motion to bind it over.

MR. EVANS: Second.

SECRETARY KEMP: Second. Any other discussion?

MR. EVANS: My recommendation is that you prepare a remedial plan and submit that. And I think that should go a long way to getting this wrapped up.

But for everybody in the audience there is nothing better than to walk in here and say here is how we fixed and here's the document reflecting that this is how we train

people here is what the rules are. So that we have something to work with. Because if we don't have anything to work with, Tex is exactly right, and the Chair is right. We have to send it over and get that hammered out.

SECRETARY KEMP: Motion and a second to refer.

Do we have any other discussion? Hearing none all if favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. The case is referred.

Thank y'all for being here. 2010-000053 Dooly County.

MR. BROOKS: This was July 20, 2010 primary election in Dooly County. The complaint in this particular case, Twanna Dunham, went to the polls July 20th and was told that she could not vote for candidates in District 1. She had to vote in District 2. In the past she had always voted in District 1 and didn't understand why that had happened. In addition, her husband was allowed to vote for the District 1 candidates even though he lives at the same address as she does. Come to find out that the grandson lives at that location as well. They mistook the grandson, his name, and allowed Mr. Dunham to vote in District 1 even though none of them should have been voting in the District 1. They were actually in District 2. Since that time, all the electors have been placed in their proper district and where they are supposed to vote at. But one was allowed to vote in District 1 and one wasn't.

SECRETARY KEMP: Any questions for Mr. Brooks?

Anyone else wish to speak?

MR. NESMITH: Good afternoon, Mr. Secretary and Members of the Board. My name is Bill Nesmith. I am the county attorney for Dooly County. My address is 108 E. LaMar Street, Americus, Georgia 31709.

I didn't know whether or not the Dunham's were going to be here to speak. But I can tell you very briefly what happened in this particular case. In 2007, the Dunman's called the chief registrar, who was actually the probate court was handling all the elections at that time. They mentioned that they lived outside the city limits of (unclear) so that put them in District 2. Then they were so moved in 2007. They failed to mention that their grandson was living with them. And, therefore, he wasn't moved and no one asked that question. Again, I wasn't with the county attorney in 2007. The probate judge is no longer in office. The newly formed board of elections just sort of inherited this error that happened in the past. When Mr. Dunman went to vote, his name is identical to the grandson except he is the son and the grandson is

the third. I know this can happen because when I was in college, my checking account looked very, very good one day, and my father's looked very, very bad. I am the third he is junior. I know it can happen, but we are supposed to be very careful in looking at identifications and making sure the person who is voting is the correct person. In this particular case, apparently it was just missed. This was the third and instead of senior on this particular day. So Mr. Dunman was allowed to vote where his grandson voted which was District 1 which is not where he lived. There was an error. There is no doubt at that. Once Mrs. Dunman talked to her husband and found out he had voted, she went to vote. And when they looked they said, well, you are in District 2. She said, no, I am not. I'm in District 1 my husband just voted. They said you are in District 2. Mrs. Dunman became upset, left and didn't vote which was her choice. The poll worker didn't know about the mistake that was made back in 2007 and was just following what the list said. So when what this all came about, when this complaint was raised when Mrs. Dunman complained about what happened, the new board of elections, Ms. Burnett is here she will speak if you want to ask her any questions. She is running the Board of elections which is a brand new operations. It has certainly been a daunting task for her. I think she sometimes wonders about the wisdom of taking this job. Nevertheless, they all got together and they all went to look to make sure, maps came out. I went over there. We all starting looking to make sure where the district, where the Dunman's live, unfortunately Ford Road, District 1 and District 2 runs right down the middle of it. If you're on one side you are in District 2. If you're on one side you're in District 1. When we determined exactly where they were, everybody was put in the correct district. They are all in District 2. They are all where they supposed to be. While there was an error in checking the identification of Mr. Dunman, the way that that is going to be handled in the future, is more training, discussion, more poll workers. People need to understand especially I guess using the senior, junior, third applies to men, so some female poll workers need to be especially attentive to that. To look at that to make sure the ID does match. There will be additional training on that. I will say the one vote that was not cast, and the one vote that was cast in the wrong district did not have any effect on the outcome of the election. And while every vote is important, and even when it doesn't change the election sends information to those candidates and it is very important. It was just a human error. It has been corrected, and the only thing we do now is re-instruct and train poll workers to be more careful about identification. And as far as the district is concerned, that's been fixed. I will be glad to answer any questions.

SECRETARY KEMP: Thank you, Mr. Nesmith. Mr. McIver has a question for you.

MR. MCIVER: Being a third myself that is where my nickname comes from. By the way my grandfather and father and I grew up in a town of 700 people. So we couldn't have three Claude's coming down the street. We'd all be mixed up. So my granddaddy was Claude. My dad was Mac, and I got this silly nickname. So that's where all that comes from. That makes me question was the name identified on the registrar's data the third and senior? Was just somebody had misread the name, or was it improperly identified on the registrar?

MS. CHILDS: Brunetta Childs, 501 North Third Street, Vienna, Georgia. The senior was listed as Lawrence Dunman and the grandson was listed as Lawrence Dunman, III.

MR. MCIVER: It was a read error by the poll worker?

MS. CHILDS: Yes, it was.

SECRETARY KEMP: Any other questions? Thank you, Mr. Nesmith. Anybody else wishing to speak?

MS. SWINDALL: My name is Debra Swindall. 460 (unclear) Road, Vienna, Georgia. I was one of the poll workers at this precinct. In the letter I received it says, there is significant evidence to suggest that you named all to have the workers, the manager, the two assistant managers and the two clerks that were there that violated the state's election by allowing Mr. Dunman to vote his grandson's ballot. I am team player, but I really don't want my name associated with an election violation. I was one piece of the puzzle in this entire voting procedure that the voter goes through. I was one at small table at the beginning when the voter comes in. I give them the voter certificate. I point out the blanks that they need to fill in. I ask for their identification. I look at their identification based on what information, put on the certificate, voter certificate. And I initial that everything is valid. Then I give the information, the voter certificate and the driver's license, back to them and ask them to go to the next table. After all this is occurred and they realized that it was the senior had voted on the third's ballot, the assistant poll manager turned to me and said did they filled out the voter certificate correctly. I said he filled it out in accordance correctly with what his driver's license said. You can look at the voter certificate there and see what it said. She went back and found the voter certificate and said he filled it out correctly. So, again, I am a team player. But I really don't want my name associated with the voting violation. So the portion of this that I was responsible for was done 100 percent correctly. I would ask that you dismiss my name, or removed my name from this violation. Because the one portion that I had to do with it, it was done correctly.

SECRETARY KEMP: Thank you. Any questions for Ms. Swindall? Thank you for being here. Anyone else wishing to speak on this matter?

Any questions from the Board?

MR. EVANS: I think we have a clear read error. So I would move that we issue a cease and decess order as to Dooly County and that we close it as to the rest of the respondents.

SECRETARY KEMP: We got a motion from Mr. Evans. Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: Second by Mr. Webb. Any or discussions?

MR. MCIVER: Yes. Mr. Evans would that consistent with what we have done the in the past given our strict standard of human errors?

MR. EVANS: I think so. Because we will hold the Board in. The only exception would be is if you wanted the actual poll worker who the reading error. But the rest really didn't have anything to do with it. They happen to be in the same polling place.

MR. MCIVER: Thank you.

SECRETARY KEMP: Any other discussion? We got a motion and a second. All in favor say aye. All opposed same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. Case 2010-000055, Muscogee County.

MR. BROOKS: This involves the July 20th, general election, Muscogee County. The allegation in this particular case was that an ineligibility voter had voted in the election. And then there was a counter allegation that there were violations of the Americans with Disabilities Act, voter intimidation on the part of the have poll workers, and there were some prevention of lawful assistance to a person who met the legal requirements to receive assistance. On July 20th Ms. Moffett went to the poll with her mother, Ms. Sanchez, filled out the voter certificates. Once the voter certificates were filled out, she proceeded to push her mother toward the DRE machine. Her mother was confined to a wheelchair. Some indication that her mother had suffered a stroke. And Ms. Moffett provides basic life assistance to her mother. As she proceeded to the DRE machine, she was intercepted by Ms. VanClef who was the poll manager and made inquiry as to what she was doing. She said she was going to be assisting her mother. And Ms. VanClef said the only person who could offer the assistance at that point was a poll worker there to give instructions to that. Ms. Moffett said she had assisted her mother in the past and this was the first time she had been informed of this. There was a series of phone calls that were made trying to clarify the issue. It was approximately 45 minutes from the time it initially began until Ms. Moffett was allowed to assist her mother. Ms. Moffett called Muscogee County officials and complained about the treatment that she had received. She felt she had been treated rudely and that they interfered with her assisting her mother. Approximately ten days later, we received a complaint from the poll manager saying that an ineligible voter had received assistance during this voting process. We received two diametrically opposed statements about what had taken place there. The poll manager and the assistant poll manager stated that Ms. Moffett came in and told them her mother was incompetent and that she had a list of candidates that they were to vote for her mother. And that when she pushed her mother to the machine once she was allowed to assist, she literally took her mother's hand and pushed the ballot. Interviewed the mom. The mom indicated that that did not happen. Ms. Moffett said that did not happen. That in fact Ms. Moffett has assisted her mother in the past. Mother said, as all mothers say, she could have

done this on her own. Depends basically on her daughter for assistance. At the end of the investigation, there wasn't a significant time delay between the time that it started until the time they got through with it. We just don't think it was sufficient evidence to support a violation.

SECRETARY KEMP: Any questions for Mr. Brooks? Anyone else wishing to speak?

MS. MOFFETT: I am Cynthia Moffett. I live at 5776 Ernstone Drive, Columbus, Georgia. It still pains me to hear me the inconsistencies in the case that we are hearing today. I have assisted my mother in the past with her voting. So have sitters assisted my mother in the past with her voting. My mother does have some problems with her vision since the stroke. She cannot see middle to left. In the past, over the past nine, ten years since I retired and move back home, we have even been brought forth to the head of the line by some of the poll workers. I have even been encouraged by some of the poll workers to help my mother. At no time, did I ever say that my mother was incompetent. I think that is just a cover up, actually. I think the only way that we can get any corrected action in this particular case is that all parties are truthful and honest. I feel like I have been. And the only reason I am here today is because as a 20-year air force retired veteran I understand rules. I lived by rules. I follow rules. And in no way was my intention ever to violate any of the rules. My intent that day was to do whatever I could to follow these now new rules that had been set in place on the 20th of July. From what I could gather the rules had been changed in the middle of the game. And I have not be aware of the change of rules because I had never had that kind of encounter at our polling booth. Either at our local station polling booth or our public library which I have been at also with my mother to vote. The statement, when I looked at the online reasons why a person cannot vote, after this encounter, it said a person who has been deemed incompetent but had to been deemed incompetent by a physician could not vote. Or if that person was a felon. I never even used the word incompetent to describe my mom. But I think that when my local officials tried to make this seem not like it really actually was, they said I used the word incompetent which I did not. Which would disqualify my mother from voting. She has not been deemed incompetent by a physician which is what the online instructions say. I never said that a poll worker had to assist her. The reason I had the list, because I had gone on line and looked at all candidates' platform. I had a list of candidates I wanted to vote for. When Ms. VanClef told me not that I told her that when she was yelling all over of the room for everybody to hear, that only a poll worker could help my mother and I trying to follow now these two set of rules that have been put into place. I gave her my list of names, and I said well here are my list of candidates. Let me just say if I have done something wrong with assisting my mother please, please let me know. Because that's not my intent. I am here to get information so that mom and I go back to the polls to vote. We have not been to the polls to vote since this incident because I am not really sure, now, what the rules are. The rules that we had followed in the past for the past seven, eight, nine years were no longer the rules on July 20th. There have been consistencies. There have been untruths. I was the first person to file a complaint against my local Muscogee voting election Board. I filed a verbal complaint seven

days after the incident. When the Inspector General's Office called me they had no knowledge of my complaint. I became, then, the person who they were complaining against. Because the only the complaint that they had was the complaint that Muscogee County had filed against me after I told about two or three people the incident. When I talked with them I told them I have a written report. I have a written report. But they said, no, we will get back with you. We only have one side of the story. We are going to have to talk to the poll worker to see what is going on. All of their statements gave me no indication that prior to me calling them and making a verbal complaint that they had any knowledge of what had happened. It seems to me that what happened was they took my verbal complaint, and they wrote a rebuttal to my verbal complaint and submitted it as the original complaint. Now I find myself defendant if this was a criminal case instead of the plaintiff. When I served my country for over 20 years going wherever my country said to go, this was not the treatment I thought I would receive when I came back to vote. I found the poll worker intimidating, rude. She treated us like we were felons even though we are not. We have no record. We are squeaky clean. Very few parking tickets. So, I just did not understand, why that was happening. She was yelling. She was yelling, only a poll worker can help. Only a poll worker can help. After several phone calls and 45 minutes later, I was just really dismayed when she finally, her voice started lowering. I guess the person on the other end told her I think you kind of messing up. You need to let that lady vote. And when took us back to the initial place where we signed in, turn over the form which I initially signed in when I first walked in, had me sign that was my mother's daughter and that I could assist her. After 45 minutes Ms. VanClef did allow us to vote. Although she continued to yell at us where everybody could hear. I experienced the intimidation, the humiliation and the stares and the empathy from the other voters with them not knowing whether I had being given a hard time because I was a felon or whether this lady was giving me a hard time for some other reason. I stood there in line for 45 minutes while Ms. VanClef made all of these telephone calls. Embarrassed, totally humiliated still very upset about it. While voters had passing by and for them to keep saying, you work with them --

SECRETARY KEMP: Anything else you need the add that you haven't already told us?

MS. MOFFETT: I would like to know, number one, what I need to do when I go to the polling both with my mother so I won't have to come up here again. And, number 2, if I was not wrong in what I did which was not my intent, I would like to know what Columbus, Georgia is going for corrective action to make sure this does not happen to me or anybody else. I don't think this is the first time this happened in Muscogee County, Columbus, Georgia. Thank you.

SECRETARY KEMP: Mr. McIver has a question for you.

MR. MCIVER: I want to begin by thanking you for your service to American. To the best of your knowledge was anybody impacted in their voting activity? They were denied the opportunity to vote because the line was long or this issue was

occurring or they were unable to vote wanted to and did not? Were you personally aware of anything?

MS. MOFFETT: I am not. The line was not long. There were not very many people. The only people I saw impacted by this type of behavior was my mother and I.

MR. MCIVER: Let me ask Mr. Brooks. What is the recommendation?

MR. BROOKS: Based on the information we got two completely, totally, opposite stories. We really came down on the side that there was no violation we could support with the evidence?

MR. MCIVER: Why was this on the consent calendar?

SECRETARY KEMP: I think we have tried to not put things that potentially where there could be voices that want to heard on sides of an issue on the consent calendar. So we can make sure that we hear both sides of the story. I think, certainly, that's what our intention is. Not to have anything on the consent calendar where we need to hear, whether we make a determination or not sometimes it is still good to hear information like this just for future reference and other things.

MR. MCIVER: Those are my only questions, thank you.

SECRETARY KEMP: Thank you, Ms. Moffett. Anybody else wishing to speak on this regard, or this case?

MR. MCIVER: I move to dismiss.

MR. WEBB: Second.

SECRETARY KEMP: Motion to dismiss and a second. Let record show Mr. Evans has stepped out and will not be voting. We have a motion and a second to dismiss. Any other discussion?

(NO RESPONSE):

SECRETARY KEMP: Hearing none all in favor to dismissing please say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All oppose, same sign.

(NO RESPONSE):

SECRETARY KEMP: Case is dismissed.

Case 2010-000065.

MR. BROOKS: This Sumpter County involved the August 6, 2010 primary run off advanced voting period. The allegation in this case was that Ms. Durden voted a republican ballot in the general election and returned run off election was given a Democratic ballot. She cast her ballot before notifying anybody of the issues. Investigation determined that on July 20th the voter certificate completed indicated that she would be voting a republican ballot. She returned for the run off on August 6th. She completed her voter certificate. She indicated on her voter certificate she would voting republican ballot. She also put it in the machine, two names came up that she says that she didn't recognize the name, and that the machine ejected the ballot. And she notified the election officials there that she believed she had voted a democratic ballot. Of course, once we looked into it the voter certificate said it was a republican ballot. We checked with Kennesaw State. Kennesaw State said you cannot, it will not allow you to vote for one primary and vote another one later on. It is our belief is that she voted republican on both ballots both times and may have simply been confused by the names that were on the ballots.

SECRETARY KEMP: Let the record show Mr. Evans is back with us.

Any questions for Mr. Brooks?

MR. MCIVER: Therefore, what is your recommendation?

MR. BROOKS: There was no violation here. She was adamant that she was given a democratic ballot and again as she said (unclear) thought she voted democratic ballot.

MR. MCIVER: You recommend we dismiss?

MR. BROOKS: Yes, sir.

SECRETARY KEMP: Anyone else wishing to speak on this case?

MR. NESMITH: Yes, Mr. Secretary, Members of the Board. Again, I am Bill Nesmith. I am county attorney for Sumpter County, 108 East LaMar Street, Americas, Georgia. As a lawyer I would never miss an opportunity to win a dispute. We certainly echo the sentiments of the AG's office and ask that it be dismissed.

SECRETARY KEMP: Any questions? Hearing none, anyone else wishing to speak? Hearing none.

MR. MCIVER: Dismiss.

MR. WEBB: Second.

SECRETARY KEMP: Got a motion and a second to dismiss.

Any discussion? Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

2010-000074 Gwinnett County.

MR. BROOKS: This involves the August 10th, 2010 primary run off, Gwinnett County. Complainant in this case, Ms. Jones, her allegation was that she was not allowed to vote in the primary run off because it was a mistake on the voting card that occurred during the general election that wasn't corrected which caused her to not be able to vote in the run off election. The investigation determined that Ms. Jones came into the precinct, completed the voter certificate, preceded to vote. She had her ten-month-old child with her. As the ten-month-old child started drawing her attention to the ten-month-old child. The child became agitated --

MR. EVANS: Ten-month-old children tend to do that.

MR. BROOKS: Her attention was focused on her child, and when she reached the section for the governor's race, she noted that the candidates she wanted to vote for did not appear on that. She brought it to the attention of the poll managers and the poll managers indicated it would take a few minutes for them to correct that, cancel that and recast the other ballot for her to vote for the republican ballot. During that time, again the the child wanted more and more attention. She left before the poll workers could identify who she was. They were able to cancel the ballot out of the machine. But they were not able to cancel her out of the express poll. Which means she got credit for voting which placed her in a primary. So when she returned for the run, the express poll showed that she had voted in the democratic primary, and she wanted to vote in the republican primary. Poll manager offered her a provisional ballot. And she refused the provisional ballot, and she left the precinct before they could get it resolved. As Mr. Harvey said she had actually marked on the voter certificate a democratic ballot.

SECRETARY KEMP: Any questions for Mr. Brooks?

MR. MCIVER: Dismiss.

SECRETARY KEMP: Anyone else wishing to speak? Hearing none we will take a motion to dismiss.

MR. WEBB: Second.

SECRETARY KEMP: Motion to dismiss and a second. Any discussion. Hearing none. All in favor to dismiss signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

2010-000126. Gwinnett County.

MR. BROOKS: This involved the Gwinnett County, November 2nd, 2010 general election. I have an email here that we would like to offer that we received.

SECRETARY KEMP: Motion to accept?

MR. MCIVER: So moved.

SECRETARY KEMP: Motion for second. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

MR. BROOKS: Mr. Secretary, the next one on the calendar that I have is 112. It was announced 126.

SECRETARY KEMP: I am sorry. This is 2010-000012 I am sorry.

MR. HARVEY: This involved the Gwinnett County, November 2nd, 2010 general election. Mr. Hicks appeared at his precinct on November 2nd to vote and filled out his paperwork, and submitted his paperwork and was told he had vote by absentee ballot on October 27th, 2010. He claimed he had not done that and that he did not appear during the early advanced vote period to vote and insisted that he did not do that. During the investigation it was determined that Mr. Hicks did not vote during the absentee ballot period and that Mr. Hicks would give him credit for voting in that particular slot. Someone voted and Mr. Hicks' name was brought up. Mr. Hicks was given credit for it, but he didn't actually vote. Gwinnett County did an internal audit to try to determine who had voted in that slot so everybody could get credit. They were unable to determine who voted in that particular slot. We examined every single piece of paper Gwinnett County had, and we were not able to determine who voted in that slot. All we know is Mr. Hicks was given credit for voting when, in fact, he did not vote in that slot. Somebody voted in that particular slot for him. He was offered a provisional ballot, and the statement he made to us was that when they offered him a provisional ballot he was told that the ballot would not count.

Gwinnett County said he was told it may or not count depending on what the investigation determined. He was adamant that he was told that it would not count. We also discovered during the investigation that at the precinct one person logged in on the system using their password. When they changed positions during the day or throughout the day, they did not log off and log back in. So again we were not able to go back to the log in to see who logged in to process that paperwork.

MR. MCIVER: Did he vote?

MR. BROOKS: No.

SECRETARY KEMP: Any other questions for

MR. BROOKS?

MR. WEBB: Mr. Brooks, it states that Dawn Gober, it's stating that she was the one who erroneously entered (unclear) have we been able to verify it was her that actually did that. Did you make that entry?

MR. BROOKS: I don't think so. I don't think we were able to determine who actually logged him into the system.

MR. WEBB: This is on the system that everybody was sharing at the same?

MR. BROOKS: Yes.

MR. WEBB: So we don't know who necessarily, we know somebody did, we just don't know who?

MR. HARVEY: That's correct.

SECRETARY KEMP: Any other questions for Mr. Brooks? Anyone else wishing to speak?

MR. STEVENS: My name is Ben Stevens representing Gwinnett Board of Registrations and Elections. My professional address is the Gwinnett County Courthouse, 75 Lanely Drive 30046. This is a case in which an error was made. The error was in selecting the name for the person that was received the absentee ballot. The person that did we don't know who that person is. That person did not notify anyone within our organization that this was (unclear). It turned out that when the issue came up at the poll, the person was told that they had absentee voted. They were given an opportunity to vote a provisional ballot. They could have voted. They chose not to do so under the circumstances. Ms. Gober is not the one who would have made the mistake. She is not the one that would (unclear) in situation like this the made (unclear) the county goes through quite a bit of training. Weeks of training on these types of issues. But, obviously, there was a question in this case. I think one of the things the county would suggest doing is to emphasize the importance of the situation when a poll worker makes a mistake to report the mistake, communicate

it to the rest of the organization. Also, obviously, to stress the importance of each person using their own personal log in. (unclear) Also, I think in this case the county is definitely going to make sure these type of things don't happen. I think we would include additional written material and also this proceeding as an example of one of the reasons it's necessary to do these things. That would be the remedial action suggested in the situation. It's a situation which the person made a mistake. It's an honest mistake. They did not report and we could not deal with it. We didn't know about it. Ms. Gober would not have known about it. That's the situation.

SECRETARY KEMP: So you are saying, we don't know who made the mistake?

MR. STEVENS: Based on all of these factors and with the suggested remedial plan, the Gwinnett County Board of Registration Selection respectfully request that this matter be dismissed.

MR. EVANS: The person who voted Mr. Hicks' vote, did they voted in person absentee?

MR. STEVENS: Yes.

MR. EVANS: I thought we had the ability to back out a in-person absentee ballot as opposed to an in-person advanced vote?

MS. LEDFORD: Lynn Ledford, 75 Langley Drive, Lawrenceville, Georgia 30046.

MR. EVANS: If Mr. Hicks had voted a provisional ballot and it sustained, theoretically, as long as this happened before the absentee ballots got dumped in we could have backed out whoever voted him before?

MS. LEDFORD: This is a little bit confusing. Yes and no. What we theorized happen based on our investigation was this is Tillman. We had another voter two or three voters later who as Tillery. We think what happened is the poll worker pulled up the wrong voter, entered him, gave him his card, and he went on to vote. At that point they turned around to write their information, realized they had the wrong voter. Rather than notifying anyone, they just went in and added the correct voter. So that gave us the one number off and made it look like Mr. Hicks had voted. Had we known about it either by the poll worker that day or subsequent prior to the election day we could have went in backed that out and he would vote on DRE (unclear).

MR. EVANS: If we didn't have everybody using the same log in we would have been able the identify who that person was?

MS. LEDFORD: We assume. Since we don't know 100 percent what voter was pulled up, like I said we are making that assumption based on the names of Tillman and Tillery.

MR. EVANS: No, no. We would know who the poll worker was who processed it?

MS. LEDFORD: Yes, sir.

MR. EVANS: To me the fact that jumped out at me out of all of this is things like this will happen. But the one fact that jump out is that one person logged on to the express poll system, but all poll workers use that log in.

MS. LEDFORD: Correct.

MR. EVANS: To me, Mr. Chair, that is the one thing we need to communicate to all of our election officials which is we can't do that.

MS. LEDFORD: Yes, and we stress.

MR. EVANS: No, this isn't about you. I am making a much broader point. I had other election officials tell me of other counties where people do that. It's like a cash register at a restaurant which is people just log in until you're expected to make up the short fall. And then suddenly when you are expected to make up the short fall, nobody let's anybody log in for their name. So that's kind of the point here. I probably would have had as a respondent whoever was the universal log in. So you could have said to them that is big no no. Because now you are on the hook for something you probably didn't do because you were the one logged in.

MS. LEDFORD: We have verbally represented that to them because we didn't --

MR. EVANS: It just carries a different significance when you see your name with the word respondent next to it.

MS. LEDFORD: Yes, it does.

SECRETARY KEMP: Thank you Lynn.

Any other questions?

MR. MCIVER: I think the record should reflect that Gwinnett County in many respects has, essentially, set the bar for the way we run elections in this state. I think that should be duly noted. For these folks to have a mistake is awfully, awfully rare. In many ways we look to Gwinnett as to how do they do it. And that becomes the standard.

MR. EVANS: I agree. I would move that we issue --

SECRETARY KEMP: Before we move, let me make sure there is no one else.

Anyone else here wishing to speak on this case?

MR. EVANS: I would move that we have a cease and desist on the single person log in. That way we will have a document we can send to every county saying don't do that.

MR. WEBB: Can that be Letter of Instruction as well, Mr. Evans?

MR. EVANS: I would rather it be a cease and desist because then it's actually an order of the Board. Where the Letter of Instruction is really a private matter.

SECRETARY KEMP: We got a motion for a Cease an Desist.

Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: Seconded by Mr. Webb. Any other discussion?

(NO RESPONSE):

Hearing none. All in favor, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

MR. MCIVER: Aye.

SECRETARY KEMP: Mr. McIver votes no. Motion carries. And we are off to the next Gwinnett case.

MR. BROOKS: 2010-000126 Involving the November 2nd, 2010 general election. The allegation on complaint in this particular case is that Mr. Maya Gribbs is registered to vote in Gwinnett County but is a residence of Fulton County and was not eligible to vote in the Gwinnett County's election. The investigation determined that Maya Gribbs contacted the election division of Secretary of State's Office asking questions about where she could vote. Where she was registered to vote where her driver's license listed her in Gwinnett County, she was staying with her sister in Fulton County. One of the staff people in the elections division informed her she had to vote in the county in which she lived. She told the staff person that she lived in Gwinnett County, that was her parent's address. That was the addressed she used for years she was in college while he was away from college. In fact still use that address on her driver's license, but she was staying some with her sister because she was looking for a job in Atlanta. The staff person contacted Gwinnett County notifying them that they received this information that she may possibly live in Fulton County. At that point in time Ms. Ledford challenged her as a voter in that particular election. Listed her on the list of challenged voters. The had a meeting prior to the election, area manager's meeting, where the list of challenge voters was presented and instructed that they had to vote a provisional ballot and not on a DRE because they had been challenged. Area manager appeared at the precinct the next morning on election day, provided the list to the poll workers instructed them on how to handle challenge voters. And sometimes during the morning hours they discovered that Ms. Griggs had come in and voted in Gwinnett County without them

knowing that she had come in. She voted on the DRE machine. At that point in time there was nothing they could do about that particular vote. Ms. Griggs did change her voter registration on November 12th after this election. But after she voted on the DRE machine there was no meeting or follow up that we understood about the fact that she had been challenged, and to remove her from the list and move her registration to Fulton County.

SECRETARY KEMP: So what is the recommendation?

Do you have any?

MR. BROOKS: We recommend it be bound over.

SECRETARY KEMP: Okay.

MR. BROOKS: We did talk to Maya Gribbs's. mother. Mother confirmed that she lived there. Maya Gribbs says that she still lives there. The address on her driver's license is still in Gwinnett County. Everything that we had suggested that she did lived in Gwinnett County and was registered there and was eligible to vote there.

MR. MCIVER: So why would we bound her over?

MR. BROOKS: Gwinnett County for allowing her to vote on the DRE machine when she should have voted provisional and not handling the challenge as prescribed by the statutes.

MR. EVANS: So the essence is they didn't have a meeting?

MR. BROOKS: It's our understanding that Ms. Ledford challenged her as opposed to going to the Board for a probable cause hearing. Once she was challenged, we didn't set up a hearing to allow her to bring witnesses, present evidence or anything. When she changed her registration to Gwinnett County to Fulton County it sort of --

SECRETARY KEMP: It seems to me that Ms. Hayes the area manager provided the list right, to the poll workers?

MR. BROOKS: Yes. When she voted she voted without being caught.

SECRETARY KEMP: What violation would Ms. Hayes be looking at?

MR. BROOKS: We have 230 listed. 21-230 the chapter speaks about the process when a person is challenged what they have to go through.

SECRETARY KEMP: Any other questions for Mr. Brooks?

Anyone else wish to speak?

MR. STEVENS: Thank you. I am Van Stevens, Representing Gwinnett County Board of Registrations and Elections. My professional address is 75 Langley Drive,

Northfield, Georgia 30046. In this particular case, we have an unusual situation in that (unclear) was the person challenged and because (Inaudible) in this case. It is not a situation in which there was any attempt or any type of fraud or that type of thing. It was brought to Ms. Ledford's attention that there may be an issue dealing with the person's qualification to vote (unclear) and from that point the procedures went as it should (unclear) ready for the area manager to present a written instruction sheet to the appropriate poll so that when this person came in, the person would be dealt with and be given a chance to vote provisional ballot. There was a mistake made, the system broke down at that point. Apparently the person came in and did not, the name was not flagged, and the person was able to vote on the electronic equipment instead of giving provisional ballot. At that point there is no way to deal with the fact the ballot has been voted in this particular election for that voter. It is true that subsequent to this election that the voter in question did register in Fulton County. That has been taken care of. In this particular case, the area manager was reprimanded for the system break down in this challenge. I think the remedial action for the county would be again to do additional training and additional written material in dealing with this type of situation and use this as example of what can happen with a mistake like that. I think also there needs an additional check at the back end of the process to make sure that even when we have a challenge like this that results in the voter casting an electronic ballot that there is an additional check to make sure that that challenge runs its course and is dealt with through a hearing before the certification. So that would be the county's recommendation for remedial action. Based on this area we would respectfully request therefore dismiss this matter.

MR. EVANS: So why didn't they meet to consider the challenge?

MR. STEVENS: I believe that was just human error. The tail end of (unclear) The issue of the ballot being voted, I think would have been moot because it's electronic. We could not do anything about the ballot at that point. There is still the question of registration qualification. I think that's the reason for the additional checking ballots. To make sure when the challenge is originated that that challenge runs its full course even in a situation like this. Where the only issue would be successfully dealt with would be the qualification.

MR. EVANS: Some counties which I kind of like have procedure where each challenge gets immediately added to the next agenda for the next Board meeting. So whoever the keeper of the agenda is, could be the secretary could be the chairman, but it's automatic. Okay if we get a challenge now the person being challenged can decide they want to give up on it or whatever but, it becomes automated. Because the code section is automatic. Which is if you are challenged you have to have a meeting. So the (unclear) county can make it automatic in their system. It's something you may want to look at as well. Because if we had that in place that would be kind of a remedial action that would make a difference.

MR. STEVENS: I agree. That's the type of thing we're looking at to make sure that when we have a challenge even though something may a little different about the

way that it runs its course, that we have more than one person looking to make sure and have something to make sure that we have challenges is actually on (unclear) before the certification. That's the type of thing (unclear) we sort of like dealing with calendaring the answer. Having two or three checks and balances on that making sure that answer gets filed.

MR. EVANS: Another option, Mr. Chair, would be to give Gwinnett County 30 days to come up with a remedial plan. Because there is not a dispute here. They didn't have a meeting.

MR. MCIVER: Perhaps Ms. Ledford is the better one to answer this. My question is more downstream. Once there is a challenge you indicated that the name of the person that was challenged was flagged. What is that? How do we take the human out of that process and make sure you don't get to vote if you are challenged.

MS. LEDFORD: What should have happened was, there is a particular way that once it's beyond our control that's in the poll they actually take care of that themselves. They are given an instruction sheet that actually tells them how to go in, find the voter, mark that voter. That's what should have happened before 7:00 a.m. Had Ms. Griggs walked in and tried to vote, it would not have let them encode a card for her. At that point she would have went in and voted a provisional ballot. Because it did break down we did try to notify here. I have a copy of the letter. We did not give the investigator because I was so out sorts on this one. There was letter that would have been given to her that told her she was being challenged, that I was challenging her, why she was being challenged and the date and time. We set the date and time for her challenge the same was we did the ones that we normally had that Friday after the election. This was just like a lot of people said, it got out of my hands. So it never made it on to the list which normally goes before the Board. Now, had it went before the Board it still would have been moot because she cast an electronic not a paper. So we had nothing to challenge her on. What would have happened normally is we then would have went, I think it's 21-2-228 which is where we challenge her qualifications as a right to remain an electorate in Gwinnett County and that would have went on that December Board meeting. But we would have never held that hearing because she registered the next week in Fulton County. So we would not have had a reason to challenge her even at our next regularly scheduled board meeting. So, truthfully, what happened was that I did not present it to the Board like I should have. But even if I had there nothing there because there because there was no ballot. We could not challenge her right at that point because she already voted electronic ballot.

MR. MCIVER: There was a procedure in place for her name to be electronically flagged?

MS. LEDFORD: Correct.

MR. MCIVER: Taking the human out of the process.

MS. LEDFORD: Correct.

MR. MCIVER: We had a break down there as well?

MS. LEDFORD: Yes, that is where it started. That is what we talked about. The area manager which is our upper echelon of poll officials -- we found this out on the Monday before the election from an email from the Secretary of State's Office. We took that information, did a challenge letter. We did instructions. We provided them to the area manager at 6:00 or 6:30 on Monday night. She did go to that poll first thing Tuesday morning, but what she failed to do was follow through to make sure that that poll manager did actually flag that voter. That is where it all started. So, yes, had that procedure been followed it would have proceeded accordingly but it did not. Subsequently it just went down hill from there.

MR. MCIVER: To Mr. Evans point about a remedial plan, where is the check and balance in that process? Poll manager does not do what she should do, how do we catch that?

MS. LEDFORD: Well, this was an admission by the poll manager. She let us know that she did this. That she failed.

MR. MCIVER: We would have known that anyway. That would have come up.

MS. LEDFORD: Right. These type of things, I am not real sure there can be a check and balance. As far as the administrative side of it like we discussed, keeping the people over on the list, making sure that we do get them to the challenge hearing whether it be for the right to vote or their qualifications to remain a Gwinnett County electorate. But at the poll I don't know that there is a way. Our area managers are supposed to be upper echelon. They are the ones who are supposed to take care of that. I don't know that there is any way that this particular situation could have been caught it. I been doing this for 24 years. This is the third one we have. Other than the none citizens that we routinely challenge. That is not an excuse. That's just giving you another peace of information.

SECRETARY KEMP: Thank you. From my perspective, the good thing is you got the information that we were able to give you. You acted on that. I think the chain of command, the proper thing was done. It was just a breakdown in how the orders were followed. You did act in good faith. So that is a good thing. It's good that you are here to explain all that.

MR. EVANS: So I would move letter of instruction subject to the receipt of a remedial plan within 30 days.

SECRETARY KEMP: Second?

MR. MCIVER: Second.

SECRETARY KEMP: A motion and a second.

Anyone else would like to speak to this matter.

(NO RESPONSE):

SECRETARY KEMP: Hearing none all in favor of the motion say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

2010-000076 Coweta County. Never mind. Scratch that. 129 another Gwinnett.

MR. BROOKS: November 30th, 2010 run off election. The allegation in this particular case is the Kelly's did not receive their absentee ballots and the Alexander's ballot was received too late for them to return it in time for the election. The investigation determined that Gwinnett County received a ballot applications from the Alexanders on November 22nd and mailed the ballots November 24th. The Alexander's received their ballots on November 27th, mailed them back on November 29th. Gwinnett County received them on December 1st which was after the election and, therefore, those ballots were rejected. The investigation also determined that Tinsey Kelly had requested an absentee ballot and when she had not received it on election day she appeared in person to vote. She was instructed to go to the registration election's office in Lawrenceville to sign the affidavit to cancel that one so she could vote and not have the absentee ballot out there. She wasn't offered a provisional ballot, and she did not request one. Our investigation lead us to look at everybody that had requested a ballot in that particular precinct and determined that they had been mailed out on November 19th. We contacted the voters by phone, the same precinct. They said they received their ballot before the election. We don't know why the Kelly's didn't get theirs.

MR. MCIVER: Recommendation?

MR. BROOKS: Dismiss.

SECRETARY KEMP: Any other questions for Mr. Brooks?

Anyone else wishing to on this speak?

(NO RESPONSE):

SECRETARY KEMP: Gwinnett County. Number 2010-000129.

Anybody else wishing to speak?

MR. EVANS: We can close.

SECRETARY KEMP: If not we have a motion by Mr. Evans to close.

MR. MCIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES): All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. That case is dismissed. 2010-00076, Coweta County.

MR. BROOKS: This case involve the July 20th primary election. The allegation was there were people in the neighborhood who were in the wrong district. They should have been in the third district and the were placed in the fourth district. People went to vote. They complained to the election's office. What they found was people that were in the wrong district were in a Kingsbrooke with an E at the end neighborhood. There is another Kingsbrook subdivision that is in District 4 that does not have an E at the end. It was a simple read error where somebody put all the Kingsbrooke people together. The situation was corrected. The people were allowed to vote provisional ballots in a run off for their proper district . However, they had not been in the right district initially.

There also was an allegation that sheriff's deputies had been intimidating voters. They were very general allegations. There was nothing substantiated. Nothing specific. There was no reason to believe, no evidence to believe that that happened. So the violation regards the Caletta County Board Registrars in terms of placing people in their proper district. Recommend that the case be bound over. Might be a candidate for a Letter of Instruction based on fact that they've corrected the error.

SECRETARY KEMP: Any questions for Mr. Harvey? Anyone wishing to speak on this case?

MR. LEE: My name is Nathan Lee. I am with the Glover and Davis Law firm, Newnan. Address is 10 Brown street, Newnan, Georgia 30263. I am here representing the board registraRS. Just briefly about the board. They are a three-member board. They are a working board. By that I mean two of the board members work full time, and the other works part time. But in reality she works full time, too, running the registrar's office. The chief registrar, Joan Hamilton, sh is with me today would be happy to answer any questions you might have. We agree with the investigator. This stems from 2010 primary election. Democrat and republican primary. Following the primary election, citizen came in and asked to meet with the chief registrar. Ms. Hamilton said he believed there were some streets that were physically in commission District 3 that were not being placed on the commission district three ballot. And Ms. Hamilton investigated this, concurred with that. We corrected the problem. The election was not influenced. The only thing that we were not sure about is the investigative report said that there were a

number of complaints. We were only notified by one individual. These may have been complaints directly to the office. But we were only notified by one person. Briefly how it happened, currently there are two Kingsbrooks subdivision in Coweta County. One has a E on the end. Currently, the Kingsbrook subdivision with an E is located in third the commission district. The one without the E is located in the fourth commission district. If you go back to 2000 right before reapportionment both of these subdivisions were in the same district, Commission District 4. However, Kingsbrook subdivision with an E was called Foxfire at the time. After reapportionment, Foxfire was moved in the third commission district. Subsequently some years later, it was changed his name to Kingsbrook with an E. We did not know about that until this election. Over the years some streets in that subdivision got put in the other Kingsbrook subdivision and having said all that my board fully understands the buck stops with them. We are not here to making any excuses. It was an error (unclear). How are we going to stop all this from happening in the future? Fortunately right as we speak Coweta County is in the process, they have a GIS program, mapping program. We had some setbacks because the former director left. We recently hire a new director. We anticipate next month, maybe March next month, we will have this district commission, all of the district commissions as well as the school board districts, electronically mapped in the GI system so we overlap with what we have and make sure there is not a similar situation. We either requested or in the process of requesting a street audit report from Secretary Kemp's office to compare that with what we compare with our maps. And we will be happened to agree to put that in consent order. If you staff has any other -- last thing we want to do is come back here again. If you have any suggestions we would be happy to incorporate them as well.

MR. EVANS: My suggestion is adopt a rule where you cannot have anymore Kingsbrook subdivisions of any spelling. But I know probably beyond --

MR. LEE: My board would not have any authority over that. We understand that 911 has put something into place whereby if you have a neighborhood, you can only have one. If you do, the streets got be related to that. I grew up in Coweta County and lived there almost my whole life. I can't believe we big enough to have two subdivisions with the same name and everybody in town not know about it?

SECRETARY KEMP: Any other questions? Anyone else wishing to speak?

MR. STOVER: David Stover, 1027 Ridley Road, Palmetto, Georgia. My only request would be to make sure that the Kingsbrook Subdivision located in District 4 do not move into District 3. The first go round during the initial primary, they were allowed to vote in the third district election. Subsequently, I am sure that they did not receive a provisional ballot (unclear). I have not heard anything otherwise that they did receive a provisional ballot. There's other reports from other people who would like to have a full audit of the county because we heard other people, reports from other people there were two different congressional seats on the ballots. Congressional area 70 and 71 for the Georgia State House of Representative. So there is obviously some issue and we would like to see them resolved (unclear). The

county never notified the people in the Kingsbrook subdivision that they were to receive the provisional ballot. It was actually done on my costs to go tell them that they would receive a provisional ballot during the election. The county never notified anybody about it in the subdivision.

SECRETARY KEMP: Any questions for Mr. Stower?

Thank you for being here. Anyone else wishing to speak on this matter?

MS. STOVER: Good afternoon. My name is Kathy Stover. 1027 Railroad. Palmetto, Georgia 30268. This case really is more than just one issue of voter disenfranchisement. It is my understanding that did in fact happened. It is my understanding that in the primary election 15, at least 15 voters, were denied the right to vote. So when they said there wasn't any impact to voters, 15 people were denied the right to vote. That is significant. That is more than what I heard, most of what's been discussed here today. But in addition to that their has not been talked about much in any of the cases I have heard and that's candidates. How hard is it to identify top quality candidates? There's a anti incumbent backlash in this country right now. Getting good people to run for office, business owners who have to take time off from work, put in substantial amount of emotional, financial, commitment. Get people out there to get motivated to talk to people to get them interested in the issues. Especially on the local, county level. That is difficult to do. We know what the voter turn out is in this country. Getting people inspired to make campaign contributions, show up at rallies and finally on the big day to show up and vote and then the name of the candidate doesn't even show up on the ballot. How hard is that? How can we go ask good, quality people to go stand up and serve their country, put the commitment in, financial time, emotional commitment, to go to work for the good of the people and then not even have people interested in turning out be able to vote for them. That's what I like to get through to you today. Think about that before any decision is taken and what needs to happen in Coweta County.

SECRETARY KEMP: Any questions? Anyone else wish to speak? Chair, ready for a motion, hearing none --

MR. EVANS: I would move that we invite the county to submit a consent order that incorporates all the items indicated in terms of computerization, the GSI, all of the things that would be put in place for approval or modification by the Board.

SECRETARY KEMP: Do a consent and bring it back to the Board?

MR. EVANS: That's right.

SECRETARY KEMP: Submit to the Secretary of State's Office.

MR. MCIVER: Before I second that. Somebody help me understand. Isn't there a way to review your ballot prior to the election? Aren't they published in the county organ? I know the League of Women Voters are excellent at that. Few things I commend them for but nevertheless the do that well.

MR. EVANS: I can also say the League of Linda Evans who happens to be my wife. She is always good at that. She always brings me the ballot five days in advance. I can't say she tells me who to vote for because she know that would never happen.

MR. MCIVER: How would Ms. Stover get her hands on a ballot if she wanted to review?

SECRETARY KEMP: Mr. Harvey?

MR. HARVEY: If it was a statewide election she could go the MVB. Here the problem is they are in the wrong district. If they had gone to county before hand and gotten a sample ballot for District 3 or District 4, they would have said this isn't right because I am in this district. I know this person is running and they are not on the ballot. That would have given the county a heads up that something was wrong.

SECRETARY KEMP: Mr. Lee.

MR. LEE: You can go to Coweta County's website, you can get your individual ballot if you want to under voter registrar section of the website. **MR.**

MCIVER: Does that require you input your address?

MS. HAMILTON: My name is Joan Hamilton. I am chief registrar in Coweta County. My business address is 22 East From Street, Newnan Georgia. What is required is your name and birth date. You can go in on my voter page and pull up your individual ballot. On my voter page. Also has the information when you would be voting and of your representatives whether they be local or state. So if a person has question on that they could just fill out that information. We been notified before the election we could have investigated and taking action at that time.

SECRETARY KEMP: Any other comments?

MS. STOVER: It is my understand after the primary only 15 people were denied the right to vote and the complaints started coming into the election board. There were dismissed. At first they were not taken serious. It to a substantial effort from one individual to finally got them to turn over who spent hours trying to get the county to pay attention and fix this issue. There was no notification to any of the residences of Kingsbrook subdivision that they needed to make sure they voted on a provisional paper ballot. One of the candidates campaigns actually tried to notify everybody the night before. There was no articles in the newspaper until the day of the election out there. Then when we had account after account after account of people, residence in Kingsbrook subdivision, going to the polls and being handed the electronic ballots, saying no I am in the Kingsbrook. I am in that subdivision there is supposed to be a problem with. I am supposed to get a paper ballot. Poll workers argued with them substantially for a long period of time. They had to get multiple people involved before they were allowed to get a paper ballot.

MS. HAMILTON: Joan Hamilton. There was one street in the Kingsbrook with an

E, Kingsbrook Circle that was correct in the primary. It would have already been corrected in the express poll for the run off. Those people would not have gotten a provisional or a paper ballot because they correctly entered before. The other streets were not a Kingsbrook, except Kingsbrook Drive. Which we had some husbands and wives in a Kingsbrook circle. Some had Kingsbrook Drive. So that was one incident of a spelling difference. But with the others in that subdivision who were offered the provisional ballot. But the ones who were on Kingsbrook Circle they were correct in the primary and they were also there in the run off. Thank you.

SECRETARY KEMP: Mr. Evans, had a motion Mr. McIver seconded it. Any other discussion? All in favor of the motion say, aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: That motion carries.

We are going to take a ten minute break to let our court reporter rest her hands. Be back in ten minutes.

SECRETARY KEMP: Let the record reflect we have got Mr. Webb back with us. We are at case number 2010-00079; is that correct, Mr. Harvey?

MR. HARVEY: That's correct. Treutlen County. This involve the general election run off in August 2010. While doing monitoring, one of our investigators went to two precincts in Treutlen County and was told by the poll manager DRE had been left at the polling places for them. When they got there unsecured these were volunteer fire stations. The probate judge, Judge Hudson, had delivered the machines earlier that morning and didn't want to deal with a bunch keys for the poll workers. So he took DREs inside, left the locations unsecured and went about delivering the next precinct DREs. Turned out there were two precincts that were effected. We cited violations of the code 328b and state election board rule regarding the duty to secure DREs.

SECRETARY KEMP: Any questions for Mr. Harvey?

Anyone wishing to speak on this matter?

MR. EVERETT: Good afternoon. My name is Tom Everett. I'm an attorney and my office address is 101 South Railroad Street, (unclear), Georgia. I am here today appearing before you on behalf of T. J. Hudson, Treutlen County Probate judge. I am the Treutlen County attorney. I would like to give you a little background information in order to assist you in examining this allegation. Treutlen County has five rural voting precincts scattered throughout the county outside the city of Soberton. They are all located in volunteer fire departments which are typically

locked. It is my understanding the practice of the fire department is to keep the key around the back stashed somewhere along the ground. Judge Hudson has had a long standing practice that on election day he will meet with another county employee at the courthouse about 4:00 in the morning. Load up the DRE machines, to inspect the vehicles and depart early that morning towards the outside edges of the county delivering the DREs to the various polling places making it their way back to Soberton before 6:00 a.m. This last year in an effort to perhaps afford his poll workers the courtesy of not having to hunt for a key in the dark, he left the polling stations unlocked. The result of that is just as the gentleman, Mr. Harvey said, two of the polling stations remained unlocked and unattended before a poll worker arrived. Since the time that Mr. Hudson has been notified of this problem, he has taken corrective action in that he is beginning to lock all polling stations and delivering a key to his poll workers. Mr. Hudson and I talked about furthering the practice in that to assured at least one poll worker is present whenever he does deliver each and every DRE to each and every polling station. I would like to argue as an advocate that there has been no violation here but. But there is clearly a violation of applicable election code rule set forth by this board.

I would ask that in lieu of binding this over to the Attorney General's Office that this board afford Treutlen County the benefit of either a Letter of Instruction, cease and desist or Consent order in this matter. This investigation has reached the attention of Mr. Hudson, and he has take action to remedy this. It is my understanding that the subsequent run off election after this violation was noticed, that Judge Hudson had corrected this problem without any complaint from the Secretary of State's Office. Judge Hudson is also available to answer any questions.

SECRETARY KEMP: Thank you, Mr. Everett. Any questions?

Anyone else wishing to speak in this case?

(NO RESPONSE):

SECRETARY KEMP: Hearing none, any thoughts from the Board, motion?

MR. MCIVER: What have we done in the past?

MR. EVANS: Cease and desist with a reprimand. Unattended DREs, the rule that we adopted when we found DREs basically left in hallways. There was an argument that the statute didn't cover it. So we adopted a rule to make it completely unambiguous. If you never leave them unattended. If you have a second violation after a reprimand, it is a thousand bucks. The first is a cease and desist with a reprimand.

MR. MCIVER: We DREs in a warehouse? County warehouse?

MR. EVANS: Yes, you are exactly right we. If they accept it we can do it right now.

MR. EVERETT: We accept whatever actions the Board wishes to make at this time.

MR. EVANS: Cease and desist with a reprimand.

SECRETARY KEMP: Is that a motion?

MR. EVANS: That's a motion.

MR. MCIVER: Second.

SECRETARY KEMP: We have a motion and a second for a cease and desist and a reprimand.

Any other discussions? Hearing none all in favor, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Thank you, gentlemen. Case 83, Montgomery County has been continued. Case number 85 Wheeler County?

MR. HARVEY: The allegation in this case involves early voting period. November 2nd, 2010 general Election. It was in the Wheeler County advanced voting precinct they could not have three poll workers. An investigator went during early voting found and just one person that was Ms. Nobles in the tax commissioner's office. She was doing early and advanced voting. She said she recently terminated an employee and was conducting the election duties herself. Election office in October sent her copy of statute requiring requirement for three poll workers. We made a return visit and, again, found that there was not three poll workers present during advanced voting. It appears that Wheeler County was in violation of 21-290 by failing to staff precinct with a manager and two assistants?

SECRETARY KEMP: Any questions for Mr. Harvey? Anyone else wish to speak on this case?

MR. AVERY: Mr. Secretary and Members of the Board, my name is Perry Avery, attorney for Wheeler County. Office address is 1302 Belleview, Dublin, Georgia. I am here today with Ms. Janice Noble who is deputy registrar. She has been in that position for 27 years. The chief registrar and active board member (unclear) who has been with the board 36 years. It is my understanding this is the first time they have been before this board. Y'all are a handsome bunch but all the same we assume not to come back. We want to get this resolved today. I will say that I have a affidavit in letter form. It's from the commissioner of Wheeler County that shows that the third individual who Mr. Harvey makes reference to was hired after we received notification that we needed three poll personnel in the polling area. If I may I would

like to submit that.

SECRETARY KEMP: Motion to accept. Second?

MR. WEBB: Second.

SECRETARY KEMP: All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

MR. MCIVER: Motion carries. We accept the document. Thank you.

MR. AVERY: At the time I believe it was Investigator Hernandez visited the polling place. I believe Ms. Janice was there and Ms. Diane Warren was there. Ms. Maxine who was a third person hired was actually out to lunch. I think the code says you have to have three people conducting an election, and we apologize. We will rectify the problem from here on out. Either they won't get lunch or, we will it have trucked in. We are asking that this matter not be turned over to the AG. We either ask it be dismissed or a Letter of Reprimand. But we have remedied the problem, and I don't anticipate you will see us again.

SECRETARY KEMP: Any questions for Mr. Avery? Anyone else?

MR. MCIVER: Am I clear, you would like to resolve it today. If that decision is something as strong as a cease and desist you would accept that?

MR. AVERY: We accept whatever the Board recommends, yes, sir.

SECRETARY KEMP: Thank you. Anyone else wish to speak? Any other motion?

MR. EVANS: Move to cease and desist with reprimand.

MR. WEBB: Second.

SECRETARY KEMP: Motion and a second.

Any other discussion? All in favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES)

SECRETARY KEMP: All oppose, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. Case Number 97, Tattnall County.

MR. HARVEY: This case involves the 2010 general election advanced absentee voting period. I have two letters that have been sent to our office. One from the state court judge, the other chairman of the Tattnall County Commission in reference to the respondent, Mr. Bradley.

SECRETARY KEMP: Motion to accept?

MR. EVANS: So moved.

MR. MCIVER: Second.

SECRETARY KEMP: Motion to second. All opposed say Aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed.

(NO RESPONSE):

SECRETARY KEMP: Motion carried. We accept the document.

MR. HARVEY: The allegation is Bradley voted twice in the 2010 general election. The evidence showed that Mr. Bradley who is a major in sheriff's department, Tattnall County voted in the office advance on October 4th of 2010 and returned October 25th, 2010 and voted a second time. The official said he was allowed to cast his second ballot because he had not entered his information into the absentee ballot voting system until after he cast his ballot. Mr. Bradley admitted to voting twice he said he voted the second time because he could not remember if he already voted. As I said submitted the letters of reference on Mr. Bradley's behalf. It appears that Mr. Bradley did attempt, did vote twice and the election officials allowed him to vote twice.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. OBERMAN: I am Dennis Oberman. Chairman of the Tattnall County Board of Elections and Registration. My board address is 114 West Rassel Street. First of all, I would like to admit to the Board, I come here representing the other two board members and admit that a mistake was made under the watch and care of our board. I would like admit that. We did make a mistake in letting that happened. Also I like to say on behalf of Ms. Callaway how this happen. I will not reiterate on the reasons she said this happen. You have that in the statement. I would like the add at this time she was in declining health and right after the last run off election she had surgery and since had to retire for medical reasons. That is one of the reasons she is not here today. As far as the remedy just not happening again we have made it clear to the workers and advanced and early voting to follow to procedure. Make sure they register the person in and make sure they have not voted prior to issuing a voter

card. And with that we make (unclear) cause reminder that it never happened again. I would like to offer a suggestion on the way to process and how this is done. During normal voting on a regular election voter cards are issued the express poll. Because of that you have to actually pull up the person. And it tells if they have voted before you actually issue a card. The way the advanced and early voting is done, they are pulled up in the system and the DRE is used to create a voter card which those are not tied together. I would like to just submit to keep this from ever happening again anywhere else through this kind of error, that maybe and I will address this to Ms. Hicks, that maybe (unclear) can look at way that this can be linked together like it on election day where a voter card cannot be issued in such a simple way just by looking at that. Also this will prevent errors in issuing (unclear) using express poll all that comes up for that person wherever they are registered to vote at. Advanced and early voting, it's just not done that way. That is just a suggestion on my part.

SECRETARY KEMP: Anyone else wishing to speak?

NEW SPEAKER: We don't any particular way to speak but since I hired this man and he has been with me about 15 years I would like --

SECRETARY KEMP: For the record, I forgot, give your name and address.

MR. RUSH: Sheriff Tattall County, P.O. Box 545 Rensville (unclear). Clinton Rush. I want tell you little about this major. As you can see he is in sling now. He has been on a lot of medication. He was back on light duty. When this happened it shocked us all because I hired this man. I have been a (unclear) 30 years. I have been a sheriff for 15 years. He is the most professional, dedicated officer I ever worked for. I honestly believe it was a mistake. When we had to secure our courthouse, I put him in charge. You have got letters and you got some more coming. You got our chairman and county commissioner, county manager. We have letters from two superior court judges our DA. I want to come in person and some of them are here to speak in his behalf. Nobody is contesting that he did it. He told the speaker he did. He told me he made a mistake. There is nobody standing up here and said it didn't happen. I did want to tell you that I really do honestly believe because we have no local contest races at in that election. He had no reason, nothing to gain and my choice of being here today is just to ask for consideration on the status of this man. He is a good officer. Thank you.

SECRETARY KEMP: Thank you, Sheriff. We want to submit your documents, Sheriff? I will take a motion to accept the documents.

MR. WEBB: Second.

SECRETARY KEMP: We got a motion.

MR. MCIVER: Move to accept.

MR. WEBB: Second.

SECRETARY KEMP: Motion to accept the documents and a second. All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Motion carries.

THE WITNESS: Mr. Secretary and Board, I just want to thank y'all for the job you doing.

SECRETARY KEMP: Name and address for the record.

MR. MURPHY: Frank Murphy, Chairman Tattnall County Commissioners. Ms. Faye Hudson County Manager. We are both here today and y'all accept the letter from the entire board on behalf of Mr. Bradley and Mr. Callaway supporting them in the job they have done. Both of them have been with the county prior to the 2000 election and the changes that have been made (unclear) improve the election in the state. Certainly want to ask for tolerance because we do feel like it's a mistake. Any questions you may have, respect the time. Appreciate accepting that letter and asking for tolerance the facts today. Actually it's a hard thing for a person to admit, they made a mistake. We really appreciate it.

MR. MCIVER: Thank you, Mr. Chairman. Any questions for the chairman? Anyone else wishing to speak?

MR. BRADLEY: My name is Raymond Bradley. I am a major with Tattnall County, Sheriff's Office. My address is 319 North Killman, Glenville, Georgia 30427. The only thing I could say is on the morning in question -- I racked my mind trying to figure out what was going on in my mind. I did come back from the doctor that morning after taking a cortisone shot for my shoulder. Tore my rotator cuff. When I pulled into the courthouse I saw the sign and it said vote. I said I got to vote. I take pride to voting, I am a veteran. I ask for some leniency.

SECRETARY KEMP: Thank you major for being here today. Anybody have any questions for Mr. Bradley? State your name for the record.

MR. MURPHY: Frank Murphy I meant to say that Major Bradley brought it back up. We are not making excuses but for the first part of this election cycle we did not have yard signs that said vote here, vote now. They were put up just prior, and I do firmly believe that major Bradley trying to be a good American and a good citizen, when he seen that sign prompted him to vote. I want to reiterate the signs had not been there the whole time. It was something new. Sort of like campaign signs to prompt people to vote. Thank you.

SECRETARY KEMP: Anyone else wishing to speak on this case?

MR. SMILEY: Jaime Smiley, chief deputy with Tattnall County. My address is 3668 Highway 178, Greenville, Georgia. Basically, I want to speak on behalf of as

the immediate supervisor and personal friend for over 14 years. When a grown man gets upset once he realize the error he has made, it sends a message. He took this very seriously. Nothing light about it. I hope that y'all consider his error and forgiveness on his part. Thank you.

SECRETARY KEMP: Anyone else wishing to speak? What's the pleasure of the electric board?

MR. MCIVER: We have been particularly strict in the past on issues like this. The dilemma upon which we find ourselves is consistency versus inconsistency even in (unclear) situations like this where it's obviously got somebody that's repentant and obviously has a reason for doing it. So I'm afraid of setting a precedent myself. I defer to any remarks Mr. Evans has to make. He and I have been at this a long time and double voting is something we come very hard on.

MR. EVANS: I agree and the hardest part is that -- when I first started on the election board the secretary of state at that time told me it was impossible for somebody to double vote.

SECRETARY KEMP: Glad I never said that.

MR. EVANS: Just was adamant. Since then we have had I don't how many instances where there has been double voting. It means that we strife harder on the front end. We have got to figure out systems that permit when you walk in to the election officials for them to say no you can't because you already voted. The Board has on occasion taking into account all of the other facts and circumstances in deciding the appropriate penalty to impose. There have been two situations that I can recall in my career on the Board where in lieu of a fine which is our civil penalty which Mr. McIver is referring to, there have been two situations where we had individuals who volunteered to do an extensive amount of community service to talk to 18 year olds, 17 and 18 year olds about the importance of voting and what the boundaries are. This might be one of the third which would be appropriate that on my last day would be one of the exceptions and not the rules. We cannot, we won't be able to avoid a reprimand because it is such a violation. On the other hand as opposed to a civil penalty, I think that if we had to we could ask or do it by consent order an agreement that involved a cease an desist which never do it again. If it ever happens again you know you get the death penalty. Death penalty as far as voting goes. A reprimand and then an agreement. The last time we -- and in the scheme of things -- it was 45 hours of community service to go to high school students and say, let me talk to about voting. Let me talk to you about what the boundaries are. I would be willing in these unusual circumstances to make this one exception. Only because I cannot be anything but impressed, not am never impressed by your ability to get friends to come and talk on your behalf. I am impressed by a lifetime of service and a record of accomplishment. So I think that to me that speaks highly and I think that that reflects that I don't have what we had before which is somebody who had found sudden decision of remorse only because they got caught. This reflects an entire career beginning in August, 1978, all the way to today of continuous service to

your state and our country. You have to be completely oblivious to the real world, if you didn't take all that into account in deciding the motives behind what appears to have been a mistake. So that is what I would recommend.

MR. MCIVER: I have a question, Mr. Chair. I have a situation with the registrar. Very serious breakdown here --

MR. EVANS: I totally agree. I express no, no part of my comments were, we have got to figure out this front end part. Because I can say with some confidence that in Cobb and Gwinnett, you can't vote twice. They make it almost physically impossible. And yet we got in other counties where this happening. We got the figure out why.

SECRETARY KEMP: Are you suggesting we (unclear)

MR. EVANS: Yes.

SECRETARY KEMP: I will take a motion or two.

MR. EVANS: I move we enter into a consent decree finding that we have a violation. A reprimand for having violated law and obviously order that it not happen again accompanied by community service of 45 hours.

SECRETARY KEMP: For Mr. Bradley, correct? We need a second. I will second.

SECRETARY KEMP: Any discussion?

MR. WEBB: I am aware that in the last few meetings we have come up with some double voters. Under no circumstances were there anything like this where it was an accident in that there was a front end problem. It was an intent to vote twice and those individuals walked away with the minimum fine under this case which is a thousand dollars. It does seem unjust to apply that same penalty to the circumstances under this case.

MR. MCIVER: I am truly torn because of necessity that we be consistent. As a veteran I am very much appreciative of Major Bradley's service to our country. But I am just troubled by that. It's double voting, and I understand the circumstances under which it happened, but one of our missions here is to send messages that are clear. So my opinion would be that we also have a fine that goes with this. But I understand the motion that has been made and prepared to vote.

SECRETARY KEMP: We have a motion and a second. I will just say for the record this is a very tough decision for the board. I know people that may not have been to a state election's board meeting before. One of things I have been impressed with about this board over the last year is about how consistent they are. This is very unusual to go off the path on double voting. But I think it also shows that we listened, and we look at people's character and their willingness to admit when they

have erred in judgment. I think there is a penalty associated with 45 hours of talking to high school kids about the importance of not only voting but being an educated voter. I think that is penalty in a way. But I also think major and sheriff and all the community leaders that while that may seem harsh to some it is light compared to what we have done to others. I think I speak for the whole board including Mr. McIver that I have been impressed. I know the sheriff and have known him for quite awhile and know what kind of folks y'all are that you all took the time to come and sit all day with us so you can stand up for this man. I certainly appreciate that. With that we got the motion and a second. All if favor say I.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Aye. All oppose, same sign.

MR. MCIVER: Aye.

SECRETARY KEMP: Motion carries on three

to one vote. We have another allegations. Do we have a motion or discussion on that?

MR. MCIVER: Refer that to the AG's office.

SECRETARY KEMP: We got a motion to refer the rest of the case to the AG's office for further study. We have a second?

MR. WEBB: Second.

SECRETARY KEMP: Motion and a second, and other discussion?

MR. MCIVER: Could this possibly be a candidate for a cease and desist assuming that the county attorney would agree to such?

MR. EVANS: The biggest thing to me is to figure out how it happened. I think that it's hard to prevent it from recurring if we don't know exactly with the system breakdown is. I suspect that in the course of developing a consent decree, we figure out exactly what needs to be fixed and get the agreement from the county that we need that it is in fact being fixed. A agree typically it would be. But I never figure out, maybe it's late in the day and I'm tired, I never figured out exactly what went wrong. Because the system is designed to prevent this.

MR. MCIVER: It's a dehumanized system.

MR. EVANS: Yes, that's why I am trying to figure out what happened.

SECRETARY KEMP: We have a motion. Mr. Chairman, would you like to make

a comment.

MR. MURPHY: Frank Murphy. I would like to ask the chairman of the board of elections if you would give him just a minute to explain. Got some really good ideas. Be something for consent order (unclear) fully in agreement of in light Ms. Callaway's retired already. Moving forward he's voiced some really good ideas, but it won't take but a minute to read.

MR. ODOM: Like I stated before the system works different for early and advance voting than it does on actual election day when you use the express poll. Basically what Ms. Callaway did, she did things out of order. Instead of pulling up his name first making sure he hadn't already voted, then issuing the voter card. She was on the phone (unclear) we just opened two satellite precinct which something different than what we been doing. There was a lot of chaos going on there. She went ahead and issued him a card. Then she register him in the system. By the time she got into the system that is when she realized he already voted. Things were done out of order here. I am not making any excuses. I am saying that should not have happened but it did. That is why I made a suggestion earlier maybe Kennesaw will look at a method of doing that where it works similar to the way it does on election day where there is no way you can issue a card without actually pulling up the person first in system. That way it will be link together. When you pull up a person at express poll if they have already voted it has it marked there. The only way you can change it is go into express poll. That happens sometimes. We had an error of one of electors this year where the wrong absentee list was sent. We realize early on people were showing up and voting that had not voted. We had time to correct this. Send it out to the precincts. They had to manually go into the express poll and removed them that voted that voted earlier. Yes, it would difficult, very difficult for somebody to vote again if it was set up this way. On election day the only way they could vote again is if somebody physically go in through several steps, go into the express poll and remove them as having voted or it would not issue them a card. The way it is set up in advanced and early voting, you just go into the system and the computer and absentee voting system and you see that they are in there and naturally on computer you notice you're voting. Then you go and create the voting card and DRE which is not linked in any way to this. There's room for mistakes and errors there. I am not making excuses for her. At least if the system was set up similar to the way it is on election day it would be almost impossible to issue a card to somebody that already voted.

SECRETARY KEMP: Thank you, Mr. Odom. Any questions? Any other discussion? We got a motion and a second.

MR. MCIVER: I think it's classic for a cease and desist. All in an effort to move these cases forward. Chairman Murphy indicated they are trying to get it resolved, and I assume don't want to involved themselves any more than they have to here. I would encourage my board members to reconsider and that we go down the road of cease and desist.

SECRETARY KEMP: Mr. Webb.

MR. WEBB: I may willing to consider that if could it be some assurance that obviously this is an issue that needs to be resolved because its not the first time and only we want it to be the last time.

SECRETARY KEMP: I think even if we were to refer, I think (unclear) discussions, I think Ms. Brumbaugh is well aware of the dialogue we have had. I think it would be an easy resolution to this if we were to refer it. I don't think it's one of those referrals where we are telling Ms. Brumbaugh to go get them. It's one of those referrals to let's get with them the next week or two and get an agreement so we know the situation has been rectified and we all go down the road. I am open to whatever the Board wants to do. We do have motion and a second we need to vote unless some other action that Mr. Evans wants to take?

MR. EVANS: I expect we will get an AG to get us a consent decree. That our proposed consent order that includes a cease and desist and a remedial plan.

SECRETARY KEMP: Any other discussion? We have a motion and a second. All in favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: The case refers over. Thank y'all for being here today. We appreciate all your service to your community. Case Number 103, Evans County.

MR. HARVEY: This case involves the 2010 general election absentee advanced voting period.

MR. WEBB: Mr. Harvey, excuse me. Mr. Girardeau's daughter whose accompanied him, Jill Girardeau is an attorney with (unclear) Carlyse like I am myself. So I will recuse myself from this case.

SECRETARY KEMP: Let the record show that Webb has recused himself.

MR. HARVEY: The facts her are almost identical to the previous case. The investigation determined that Mr. Girardeau voted on September 21st during advance voting and voted again on October 27th. It is almost the same situation with the election officials. They were busy in the office. They failed to check the system to see if he had voted before issuing another voter access card. One correction I would like to make on the violations is we have got him listed on the third down. It says violation 21-2-572 and 21-2-560. I would amend the second violation to 21-2-562a which I think is more accurate with the facts. Mr. Girardeau admitted what he did. I believe he said it was a mistake. He apologized. Said he was embarrassed. Those

are facts the I report before you today.

SECRETARY KEMP: Any questions for Mr. Harvey.

MR. MCIVER: Have you determined how this happened?

MR. HARVEY: The same way that the previous one did. They should have checked him into the voter registration system to make sure he had not voted. They simply were busy. They gave him the access card before they checked, and he was able to vote the second time. Almost the exact same fact pattern.

SECRETARY KEMP: Ms. Hicks, we need to put this on our list for training in Savannah.

MS. HICKS: It's on my list.

SECRETARY KEMP: Any other questions for Mr. Harvey? Anyone else wish to address --

MR. CALLAWAY: Mr. Secretary, Board Members, my name is Bill Callaway. I am county attorney for Evans County. My physical address is 104 Daniels Street, Claxston, Georgia. In regards to the allegations as to Mr. Girardeau's vote, initially it was stated or in the allegations states he was not entered when he voted the first time. He was in fact entered into the voting system. I have those documents to say that he did. He was assigned a voter number and that list also showed the precinct that he voted in. When he came in a second time as (unclear) said it works totally different in pre-vote or absentee vote because you still got 15 days left to register. So you can register and vote at the same time. So register because the voting is run at the same time. In the system when on election day when person comes in you type in the name. It comes up the computer flashes he's voted, or he's an alien and he is not suppose to vote. In the pre-vote, it doesn't come up that way. It comes up with a screen. May I hand you this. Copies of voter registration maintenance (unclear).

MR. MCIVER: Motion to accept.

SECRETARY KEMP: Motion to accept. Got a second?

MR. EVANS: Second.

SECRETARY KEMP: All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Motion to accept carries.

MR. CALLAWAY: Part of the problem, it shows where he voted. All of that material comes up on the screen at one time. The poll worker just flat missed it. It was a human error when he went to vote the second time. That's what came up when

he voted the second time. They just missed it. Mr. Girardeau voted and it didn't kick it out. If they had seen, they would have known he had voted, but they didn't see it. We have implemented better instructions, check lists, so that it doesn't happen. Make sure you check, name, address precinct and whether or not they voted for our future elections. But human error that we over, we just flat missed it.

SECRETARY KEMP: Any questions for Mr. Calloway? Anyone else wish to speak?

MR. GIRARDEAU: Mr. Secretary, Board Members, Director Hicks. My name is Lee Girardeau. Last name G-I-R-A-R-D-E-A-U. My residence address is 1717 Perkins Mill Road, Claxston. My mailing address is 14 South Devall Street, Claxston. I am embarrassed to be here today. I am disappointed I've created this predicament for myself and my county officials and volunteer poll workers. On October 27th or 28th, I did go in and vote in the general election. I was subsequently called later that afternoon after 5:00, I believe, and the registrar's office advised me that I had voted twice. At that time I was immediately stunned that I did this and was angry because (unclear) accountability for it. I provide a written statement as you required. I hope you have it. I will attempt to answer questions that you might have.

SECRETARY KEMP: Any questions.

MR. MCIVER: I have not seen the written statements, so would you give at least for my purposes give a better explanation. You appear to be a very lucid and an educated man. You voted once on a certain date and then you came back and voted a second time.

MR. GIRARDEAU: Yes. In the statement, it was incomprehensible to me too, but nevertheless I did it. I would say that I am around town most of the time. I never have to make a plan to vote. I essential response to the stimulus and go vote. It usually works out that I can participate. When I voted on October 27th or 28th, it was originally suggested to me that I voted on the 28th. But I thought it might be the 27th. It could have been either one. I could never processed the September 21st vote as being in the general election. I don't know that there been a timeframe that we could separate votes in the same election on the early voting period quite so much. I don't know if that is accurate. I never processed the September 21st vote as the general election.

SECRETARY KEMP: Any other questions? Thank you. Anyone else wish to speak?

MR. CALLOWAY: May I say one thing? While it doesn't eliminate either the error that the poll worker missed the vote, there was no local elections. There was no contested contest. There was no outcome that the vote affected one way or the other (unclear) no contested races.

MR. EVANS: We had a contested governor's race.

MR. CALLOWAY: Yes, sir.

SECRETARY KEMP: Any other questions? Anyone else wish to speak?

MR. EVANS: I move we refer the whole thing over, both --

SECRETARY KEMP: Got a motion to refer it to the AG. Second?

MR. MCIVER: I'll Second.

SECRETARY KEMP: Mr. McIver, seconds. Any other discussions. All if favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. That will be referred. Thank y'all for being here. Case Number 2010-000110 DeKalb, Stone Mountain precinct.

MR. HARVEY: This case involves the November 2nd, 2010 general election. The allegation was that the Stone Mountain DeKalb County polling place did not open on time. The poll manager did not arrive at the precinct until 6:50 on day of the election. The express poll was forgotten at her home. She had send poll worker to retrieve it. The precinct itself was open at 7:00. But the voting was not started until 7:24 that morning. Voters that came early between 7:00 to 7:24 were offered provisional ballot. They never notified anybody at the county that they had this delay. In addition we found out that the other assistant poll managers also arrived late on election day. So we have got the individual poll workers cited for violations of (unclear) at the poll place before opening and the county as well for allowing it to happen.

SECRETARY KEMP: Any questions for Mr. Harvey? Anyone else wishing to speak?

MR. PRITCHETT: Good afternoon. My name is Wayne Pritchett, chief assistant county attorney for DeKalb County, 1300 Commerce Drive, Decatur 30030. I am here on behalf of Ms. Daniels and the DeKalb County Board of Registrations and Elections. I would like to start off by submitting to the Board if you all would consider it, some training materials that the DRE uses.

MR. MCIVER: Motion to accept.

SECRETARY KEMP: Motion. Do we have a second.

MR. WEBB: Second.

SECRETARY KEMP: Motion to second. All in favor say I aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Motion carries.

MR. PRITCHETT: To Mr. Evans' point that he's made several times during the course of proceedings today about corrective action. I want to emphasize to y'all this isn't a corrective action that was put into place after this incident. This is what was already in place before the incident. These, I think I set four copies up there. These are the materials that the DRE has had in place for some time. These are the materials that are submitted to poll workers including Ms. Darden, the poll manager in this case. In addition to the these written materials, there is also training class on the materials which Ms. Darden, the poll manager attended. Throughout the materials there are references to when you are supposed to arrive at the polling place and what should happen if you don't get there in time. In other words it covers everything that we are talking about today. In this case, I would submit to y'all that short of Ms. Daniels going to Ms. Darden's house and picking her up and taking her to the poll, I am not sure what she could have done to get her there. The training is in place. It has been in place. It was given to Ms. Darden. Ms. Darden had in fact worked as a poll manager previous to this election and had performed up to par. So there is no reason to believe that this was going to happen in this case. The fact is that she didn't arrive at the polling place at 6:00 a.m. like she was supposed to. There is no doubt about that. But I am here on behalf of Ms. Daniels and DRE and to represent to y'all that there was more than adequate training in place and had been received by Ms. Darden. And for whatever reason she did not do it in this case. As far as the corrective action plan, Ms. Daniels fired Ms. Darden. She is not working as poll manager at the county anymore as a result of this incident. That's is the corrective action she put in place. As far as the, the polling place was open at 7:00 in the morning. That's represented in your own findings of fact. There were provisional ballots given out and according to your findings of fact it was were fully functional with the machines and everything by 7:24 that morning. To Mr. McIver's point that he's made several times, nobody was denied the right to vote. Everybody did vote. The potential violations for Ms. Daniels are that she violated 21-270-13 by failing to ensure that poll workers arrived one hour prior to the opening of the precinct. I think the that training materials that I have submitted to y'all address that point squarely. The other violation is there was sufficient evidence to suggest that Maxine Daniels violated 21-2-403 by failing to open the polls at 7:00 a.m. I believe the facts that the polls were open in fact opened at 7:00 and people were provided provisional ballots and everybody was able to vote. Based on that I would ask that the Board dismiss the violation against Ms. Daniels and the DeKalb Board of Registrations and Elections. I would be happy to address any questions y'all might have.

SECRETARY KEMP: Thank you, Mr. Pritchett, any questions? Anyone else wishing to speak on this matter?

SECRETARY KEMP: Hearing none. Ready for a motion discussion?

MR. EVANS: I move we close this to everybody but Ms. Darden and Ms. Smith. As to Ms. Darden and Ms. Smith I move we refer it over.

SECRETARY KEMP: Which Darden.

MR. EVANS: Jacqueline Darden and Roselyn Smith, Aaron Darden, Jeremiah Bell and Quintony. Aren't they the ones that didn't arrive on time?

MR. HARVEY: Yes, sir.

MR. EVANS: And is Jacqueline the only one that was discharged?

MS. DANIELS: My name is Maxine Daniels. I am the director for DeKalb County Voter Registration, 4380 Memorial Drive, Decatur, Georgia. Yes. Ms. Smith was reprimanded, but she has a long history with us. And she was 15 minutes late. We only knew that by her own admission. She was there and waiting but Ms. Darden had all the materials. The other people were all relatives of Ms. Darden and riding with Ms. Darden. That is why they were as late as she was, so they all have been basically dismissed. Ms. Smith we continue to keep but not as poll manager. We will allow her to work and allow her to make amends. But the rest of them have been removed.

MR. EVANS: Aaron Darden, Jeremiah Bell, Quinthy Darden are all gone?

MS. DANIELS: Yes.

SECRETARY KEMP: Restate your motion so we can make the recorder gets it.

MR. EVANS: So as to Jacqueline Darden, Aaron Darden, Jeremiah Bell and Quinthy Darden, I move we refer.

SECRETARY KEMP: We got a motion by Mr. Evans to refer. Do we have a second? I'll second. Any discussion?

MR. MCIVER: My background as military, if something happens to the ship the captain gets fired. That is my position. I have always been impressed with Ms. Daniels. I have had earlier exposure to her. But were it me, I would have had a system. Everybody would have to call me at 6:00 in the morning to say we are in our car. We are moving so on and so forth. This may not be her direct fault, but she is in charge. I would hold her as responsible as I would the others.

MR. EVANS: I think you would agree with me, at least, on those four that we should refer?

MR. MCIVER: Absolutely. I would cast a broader net.

SECRETARY KEMP: The motion is to refer these four individuals. Then we can refer to the rest of them. Is that clear to the Board? We have a Motion and second. Any other discussion?

MR. EVANS: Jacqueline Darden, Aaron Darden, Jeremiah Bell and Quinthy Darden. I will deal with Rosalind Smith in a second and then I will deal with Ms. Daniels.

SECRETARY KEMP: Motion to refer those, correct?

MR. EVANS: Yes.

SECRETARY KEMP: I second. No further discussion. All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

MR. WEBB: Aye.

SECRETARY KEMP: Motion carries.

MR. EVANS: As to Rosalind Smith, I would do a cease and desist and a reprimand. She has already been reprimanded, as I understand, by the county, so that shouldn't be anything new. But I will cease and desist and reprimand and a mandatory training period which I think we have done before on late arrivals. It's a training that the Secretary of State's Office has why it has a ripple effect. So that would be my motion as to Rosalind Smith.

SECRETARY KEMP: We have motion. Do we have a second?

MR. WEBB: I second.

SECRETARY KEMP: Webb second. No further discussion.

SECRETARY KEMP: No further discussion. All in favor of Mr. Evans' motion signify by saying aye. (WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

MR. WEBB: Aye.

SECRETARY KEMP: Motion carries.

MR. EVANS: As to Maxine Daniels, it seems to me there needs to be a system in place that says you get called 6:45, 6:40 or something. Then there is a back up that goes to that area. I am told that you have that in place. If we could make that remedial plan, part of consent order. Which is that in fact this is now something that you agree to do formally, to us, then I would be willing to support a motion to have a

consent order with remedial plan. I think Mr. McIver is exactly correct. When I hear, gosh there isn't anything I could do. I think back the role that Mr. Webb, Mr. McIver all had to face with judges. Which is if we don't show up when they tell us to show really bad things happen to us. There is no if, and's or but's. We don't get the luxury. So we always have redundant systems in place. We just need to have a redundant system. I would move that we have consent order with a remedial plan presented to the Board for consideration and adoption.

MS. DANIELS: Maxine Daniels, again. We in fact do have more processes than what is shown there. All of your precincts are directed to call us in the morning before 6:30 to let us that they are in their precinct and up and running. Understand we have 189 precincts. So you can imagine that is a daunting task to get all of that (unclear) receiving calls from all over, text messages as well. At the time we found out about this situation, we in the hunt so to speak for this precinct. So it wasn't a thing where we were caught completely unawares. What happens is there are a lot of precincts. Let's be real about it. We also have in place emergency procedures. So in the event that first of all if the precinct does not get in this is what you do. We have something called open on the street. If somebody doesn't appear this is what we do. We have very, very specific steps as to how to make certain that we open at 7:00. At the time the secretary of state was notified about the situation, we were already in the process of contacting our law department to extend the hours of this particular precinct in case we did not open on time. That is final result is to make certain that the voters have the full 12 hours required by law. That in the event that a precinct does not open on time, we are already going to our superior court to get an extension. We were in the process of that when we found out, in fact, there were no voters that were refused voting. That the precinct did open at 7:00, but it opened on provisional ballot which is our process. So we have very specific processes. More than what we are showing you here. But what I was addressing was what we tell co-workers specifically about being there on time because that was the allegation. But we will be glad to outline everything that we do.

MR. EVANS: What was suggesting to you is that whatever systems you have, they didn't work here. Anytime I have a system and it didn't work, I always think to myself I probably need to tweak that system. Maybe you move the call up period rather than it be 6:30, its 6:15 so you have an additional time period in order to find your back up. Some counties have a triage of back up people who are not assign to any one precinct. They go to wherever somebody didn't show up. And so there are any number of procedures. All I am suggesting is, you identify those for us. I am satisfied you are taking the necessary steps to manage a very big system. I am also sensitive to the Chair's position and Mr. McIver's position which is but everything has to work. I always think of the air traffic controller which you can't be approximate. You can't be like the one way but give or take 10 feet. We want to be that way about voters. So what I would suggest is that you go back and say we got the enormous system but it obvious we have one little hole. We are going to tweak it so we address your concern with this remedial y'all plan.

SECRETARY KEMP: Would you remind restating your motion.

MR. EVANS: A Motion that we have presented to us remedial y'all plan that satisfies the circumstances that happened here which is what happens when you have a carload of relatives who are not going to make it on time, basically.

SECRETARY KEMP: Got a motion by Mr. Evans do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: Second by Mr. Webb. Any discussion?

SECRETARY KEMP: Hearing none call the question. All in favor of Mr. Evans motion, signify by saying aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

MR. WEBB: Aye.

SECRETARY KEMP: Motion carries.

Case 2010-000116 DeKalb County, (unclear).

MR. HARVEY: This case also involves November 2010 general election. I've got a letter that was sent by Gene Edwards the election supervisor of Tift County that the Board might consider.

SECRETARY KEMP: Motion to accept?

MR. MCIVER: Move to accept.

MR. WEBB: Second.

SECRETARY KEMP: Motion and a second. All in favor say, aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Aye. Motion carries.

MR. HARVEY: The complainant in this case is Maxine Daniels, DeKalb County. She reported that a voter apparently attempted to vote twice in the general election of 2010. She referred it to our office. When they checked the system they found the person in question had already voted in Tift County. Our investigation revealed the voter was Brenda Lorraine Maulden. Brenda Louise Maulden had registered to vote in Tift County earlier. Tift County accidentally pulled the wrong voter. Pulled Brenda Lorraine Maulden instead of Brenda Louise Maulden. So when Brenda Louise Maulden voted in Tift County as she was registered she was voting in fact for Brenda Lorraine Maulden. They simply choose the wrong elector in the system. She voted, Brenda Lorraine Maulden voted by provisional ballot in DeKalb County.

Tift County's response is they essentially stated the summary was accurate. It was an error they corrected it as soon as possible. It's recommended that Tift County be bound over to the AG's Office for corrective action.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. EVANS: Do we know the name of the person who made the error?

MR. HARVEY: No, sir.

MR. EVANS: Is there a way to determine that?

MR. HARVEY: I can check.

MR. EVANS: What we want to do is to elevate the awareness of everybody who works because as you can tell from today's agenda this name error, read error is now becoming a pattern. It can be anything from whether it's a junior or the third or could it be Brenda L versus whoever, but it's a pattern. But the only way we ever break the pattern is there is a general awareness among election officials you have to be really, really careful on names. If you don't you end being a respondent and you have to go to the Secretary of State's Office and explain how you made this mistake. I would encourage us to try to find those so that we can -- the moment a couple people do that, then they will tell everybody they know, every friend they know when they go GEAO meeting or the VRAG meeting and say I was called before the board because I read a name wrong. Then everybody gets really careful on names. And our goal is everybody be careful on names. I say that having been on the board for so long because we actually go through cycles of this. There was cycle one year where we had 20 or 25 of these in a year. Then we didn't have one for two or three years because we hauled everybody in. Now we are starting to see just the tip of the iceberg of today, what, we had four or five of these? If we are not careful next month we will have four or five more and pretty soon you'll have you 25 in a year. So that's my only suggestion, Mr. Chairman.

SECRETARY KEMP: Anyone other discussion. Anyone else here to speak on this case today?

MR. MCIVER: I have some confusion. You are referring in your report to Gene Daniels. We have a Gene Edwards and Maxine Daniels.

MR. HARVEY: Gene Edwards is the superintendent of Tift County. I misspoke. Gene Edwards is the woman who wrote the letter in Tift County.

MR. MCIVER: Second page of your reports, Daniels should be replaced with Edwards?

MR. HARVEY: That's correct.

MR. MCIVER: Let's not scare Ms. Daniels.

SECRETARY KEMP: Let me make sure there isn't anyone else wishing to speak on this case. Ready for a motion and discussion?

MR. EVANS: Where was the mistake made again?

MR. HARVEY: The mistake was made in Tift County when they pulled up the wrong Brenda.

MR. EVANS: Our report says Gene Daniels was the violation. I think it was actually Gene Edwards. I move that we refer it over as to Jeans Edwards and the Board.

SECRETARY KEMP: Motion to refer to the AG and a second? Hearing none all in favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Aye. All opposed same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

White County.

MR. HARVEY: This again involves the November, 2010 general election. Charles Bailey attempted to go vote in White County. He was not allowed to vote because he was not registered to vote in White October according to the system. He was informed he was deleted from the ineligible list of voters and not allowed to vote. He left without voting. I have a letter sent Charlotte (unclear) the interim director of the Hall County Board of Elections and Registration.

SECRETARY KEMP: Motion to accept?

MR. WEBB: So moved.

MR. MCIVER: Second.

SECRETARY KEMP: Got a motion and a second. All favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

MR. MCIVER: Motion carries.

MR. HARVEY: Mr. Bailey had previously been registered in White County. He moved to Hall County completed a change of voter registration. In August of 2009, Hall County was updating their files and they printed out a list of eligible voters and compared it to the registration cards. His registration card had been pulled when he was transferred. But they had not update their list. So they saw him on the list.

They printed out his voter registration and pulled him back to Hall County. They thought they had made a mistake, so they pulled him back to Hall County. Hall County then sent a voter registration card to Mr. Bailey, and he responded and said no I am registered in White County. So they went into the system and instead of changing, deleting him from the list of voters in Hall County they deleted him from the system completely in error. He was not allowed to vote in White County. Also, when he went to vote in White County on election day he was not offered a provisional ballot even though he had his precinct card with him, he had photo identification. So in this case we are recommending binding over on the White County Board Election Registration and the Hall County Board Election Registration, Hall County from deleting him from the system. White County for not allowing him the opportunity to vote a provisional ballot.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. BAKER: I'm Garrison Baker, 59 South Main, Cleveland, Georgia. I am the probate judge and superintendent of elections for Pike County, Georgia. I also have (unclear) chief registrar. We are not here to contest the findings, the allegations or the findings. We do have some issues about how the issue did come up. But the bottom line is we did not offer up the complainant a provisional ballot which we should have. It was our fault. We apologize for that. We will answer any questions you might have.

SECRETARY KEMP: Thank you. Any questions for Judge Baker. Anyone else wish to speak? I do have a question. It occurs to me this may be a training issue. Having sat in a number of training sessions, I think have been told or at least I have listened to the fact that under virtually every circumstance you'd offer somebody a provisional ballot other than maybe a (unclear) or somebody who clearly had no interest in voting just intending to make trouble. Have your folks attended the training sessions offered by the Secretary of State's Office?

JUDGE BAKER: We have training. It is your standing policy (unclear) provisional ballot be offered. Our poll manager of that precinct, our policy is when it's a registration issue we have poll managers to call the registrar's office and in this instance the registrar looked at the information, saw the deletion and actually advised the poll manager not to issue a provisional in this instance. That is the reason it was not issued at the precinct.

SECRETARY KEMP: Any other questions? Any other discussions? Anyone else wishes to speak? Hearing none, I am ready for a motion.

MR. EVANS: I vote we issue as to White County a cease and desist reprimand and mandatory provisional ballot training at the GEOA. I sat through that training. I think we sat through it couple times. And you can't walk out of there not realizing that you give them a provisional ballot. Period. That is just the rule. So that would be my motion for White County.

SECRETARY KEMP: We got that on the agenda for the meeting?

MS. HICKS: We do it for the GEOA and the voter registration training. Plus we also have an on-line training as well.

MR. EVANS: I don't want it on line. Well, on line, but this needs to be in person. It needs to cost somebody a little bit of money. But I want to get some benefit out of the money which is they can pick VRAG or GEOA but they have to attend in person, the live training on provisional voting. That would be my motion on White County.

SECRETARY KEMP: We got a motion. Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: Any other discussion? Judge, you got any thoughts on that?

JUDGE BAKER: We attended both of these training sessions (unclear) there and we will attend and do whatever you tell us to do. We understand and recognize the mistake. We apologize for the error. It's unfortunate. We had a voter walk away without an opportunity to vote.

SECRETARY KEMP: Any other discussion? Hearing none. All in favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: The motion carries. Now we got to deal with the other part of the case. No one here to discuss Hall County. We got their letter? Any discussion? Motion?

MR. EVANS: I just move we refer it over the Attorney General's Office.

MR. WEBB: I second.

SECRETARY KEMP: Got a motion and a second. Any discussion? Hearing none. We got a motion and second. All in favor or referring to the AG say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. Let the record show that Mr. Evans is stepping out for a minute. We are on now for the Attorney General reports. We

have implemented the consent order with a lot of the work Ms. Braumbaugh has done and agreements she has reached. At this time I ask the Board or if there is anyone in the audience who would like to hear information from Ms. Brumbaugh about the Atkinson County, Bleckley County, City of Gillsville, City of Temple, Elbert County, Athens-Clarke County resolutions that Ms. Brumbaugh has come up with. If you want to take those out we need you to come up and let us know. Or if a Board member wants to pull that out and have a discussion on that, we can do that at this time. Yes, sir.

MR. EVANS: I am Tony Evans, Cobb County P.O. Box 202, (unclear) Road, (unclear) 31827.

SECRETARY KEMP: You want to pull out the Talbert County case? We will pull that out be back to you. Anyone else? Any of the board need to hear anything about the other cases? Just the consent cases. Anyone else wishing to hear any one of the consent cases.

MR. WEBB: Give me a minute, please.

SECRETARY KEMP: Yes, sir.

MR. WEBB: Ms. Brumbaugh, the City of Temple case, that was determined to be the county's issue?

MR. BRUMBAUGH: Y'all referred both the city, the county and the individual electors who were voting in the municipality when they shouldn't have been. I negotiated consent orders that were identical for both the county for not having their records right and for the (unclear) for not voting in the right place.

MR. WEBB: Counties in here?

MR. BRUMBAUGH: The county was presented at the last meeting. And that was accepted.

SECRETARY KEMP: We need a motion to agree to consent orders that Ms. Brumbaugh has reached on case 2008-40, 2008-1115, 2009-38, 2009-45, 2009-07, 2010-30.

MR. WEBB: So moved.

SECRETARY KEMP: Mr. Webb makes that motion.

MR. MCIVER second. Any other discussion?

SECRETARY KEMP: Hearing none. All in favor of the motion on these consent orders. Signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, like sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. Ms. Brumbaugh. I will call the 2009-000029 Tolbot County case, and just let you brief us on that.

MR. BRUMBAUGH: Yes, Secretary. When I looked back at the report, it appears that there were originally ten allegations in the initial complaint. However only a few of them were referred to my office. The ones referred to my office, respondent Johnny Durham, he voted in the Talbot County election even though he lived in Harris County. He has agreed to a \$250 civil penalty cease and desist public reprimand. The Talbot County board was also in violation of the election board because although local election offices can mail ballots automatically to elderly voters, there has to be a written request. And for at least two voters there was no written request. And Talbot County Board mail those ballots in spite of the fact there was no request. They have submitted a \$200 civil penalty cease and desist and public reprimand was (unclear). There is still an outstanding case against Jimmy Raines. He allegedly voted twice. I haven't been able to get in touch with him. I think I will have to send that one in for an administrative hearing and see what happens there. The last case was Stancez Passmour who like Mr. Durham was referred for voting in Talbot County when he did not live there. But in fact, I think the evidence was a bit more convoluted. He was living there with his mother. He was just traveling extensively for work, and he considered himself a voter of Talbot County. He was registered in Talbot County. There wasn't extensive evidence of a different residence or voting or registering in a different location. So because voting by unqualified elector requires that you willfully and knowingly do this, and he thought he was a voter of Talbot County he was registered and he was still with his mother, I would recommend that you dismiss it as to Mr. Passmour. So that's the Talbot County case.

SECRETARY KEMP: Anybody else wishing to speak on this case? Mr. Evans?

MR. EVANS: I am Tony Evans. As a voter of Talbot County I been watching these voters in Talbot County. We seen a lot of stuff go on there, and it seems mighty small amount for what we have seen (unclear). That is my statement.

SECRETARY KEMP: Thank you Mr. Evans. Hope you keep us apprised of anything else you see that you think we should know about.

MR. EVANS: (unclear) a lot goes on there.

SECRETARY KEMP: As I said earlier, as things progress if there is anything you think we need to know about, get in touch with Mr. Harvey and Mr. Brooks. Call our office, email us. Come see us. Write us a letter. We will be glad to look into it.

MR. EVANS: Thank you, sir.

SECRETARY KEMP: Anybody else wishing to speak on the Talbot County case. If not I will accept a motion.

MR. WEBB: I make a motion that we accept the consent.

SECRETARY KEMP: Motion to accept the consents and resolutions to this case as presented by Ms. Brumbaugh. Is that fair to say Mr. Webb?

MR. WEBB: Yes.

SECRETARY KEMP: Seconded by Mr. McIver. Any other discussion? Hearing none. All in favor of the motion signify by saying aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. We move on to the initial decisions. Ms. Brumbaugh, Case #50. Chattooga County.

MR. BRUMBAUGH: This is the last respondent in the Carlton Vines Election Fraud case from Chattooga County, November 2006 general election. Albert Palmer was a friend of Carlton Vines. He is an attorney in Chattooga County. I think he has been on the ballot. Been a local elected official up there at various times in the past. The evidence in the case and adduced at the criminal trial of Carlton Vines was that Mr. Vines walked into Mr. Palmer's law offices and said, can I have some stamps. And Mr. Palmer said, I don't have stamps but use my postage meter machine. And so Mr. Vines did so. He stamped 18 absentee ballots on this postage meter machine, and it was actually that was how this whole case initially blew open. They found the 18 sequentially stamped ballots and they got curious. Mr. Palmer refused to sign a consent order that Mr. Vines entered into. I sent this case to the Office of State Administrative Hearings last fall. I did it on documentary evidence, the certified copy of the transcript from Carlton Vines' trial wherein Mr. Palmer testified and admitted he knew that when Mr. Vines asked for postage that Mr. Vines was holding absentee ballots. So Mr. Palmer knowingly gave Mr. Vines use of his postage meter machine in order to mail absentee ballots. I also submitted the consent order that Mr. Vines and the other respondents in the case had signed. But the evidence in the consent order is the same real evidence that's in the transcript from the criminal trial. My theory of the case this was the way the case was presented to me by then Inspector General (unclear). I did my own research, I talked to people in my office who do more criminal work than I do. I presented to OSA that Mr. Palmer was a party to the crime. The crime of violating 21-2-574 which is unlawful possession of ballots and 21-2-385 which is unlawful delivery of ballots. Mr. Palmer's attorney submitted a response motion which completely ignore my theory of the case and attacked the constitutionality of these two statutes. I have been through that response motion line by line. I am not persuaded by his arguments, but he has made them.

Judge Oakley of the Office of State Administrative Hearings issued a four-page initial decision on December 16th I believe. Which more or less ignored both of our motions. Went on a straight physical possession. custody or control. Was Mr. Palmer in custody or control. Accept she didn't really define it that way. She just did Mr. Palmer possess these absentee ballots. No he did not. Therefore, I am dismissing the case against Mr. Palmer. So the Board's decision now is whether to accept Judge Oakley's decision and the case will end. Or we can reject Judge Oakley's decision and issue a final order consistent with whatever the Board feels is the correct application of law here with the understanding that probably Mr. Palmer will appeal this. We will be litigating this first in the superior Court and then probably eventually in the supreme court. I am at the Board's pleasure as to how you all want to handle it. There is a second issue in the case regarding a Board rule that says it's not bribery to give someone postage for a ballot. Mr. Vines wasn't bribing Mr. Palmer, so in my opinion this rule that says it not bribery to give someone postage for a ballot has no application when you are giving someone postage to unlawfully distribute and deliver and possess ballots. So it is not a defense to Mr. Palmer's action. The initial decision does suggest that Judge Oakley felt differently. Again it is not very well flushed out, but I think she said that my analysis of the parameters of that rule and how it didn't apply in this case, I think she titled it not persuasive. So that will be another issue that we will be wrestling with should we continue this case.

SECRETARY KEMP: What are our options again?

MR. BRUMBAUGH: Our options are to accept or reject the consent order or reject a consent order. Give me direction, I will write up a final order that can be signed. But then Mr. Palmer has appeal rights and would probably appeal that final order to first the superior court of probably Chatooga County. Depending on that order, then there will be perhaps an appeal to the supreme court of Georgia. We would have the option of appealing that order as well.

SECRETARY KEMP: So when we reject, we have to reject with a final order and --

MR. BRUMBAUGH: Reject in writing with findings of fact, conclusions of law. The only other option is to send it back to OSA) I don't recommend that because there is no additional evidence. We have got transcripts. We have a consent order. That's the testimony. That's the case and there is not really going be any new facts or additional fact finding to do.

MR. MCIVER: Mr. Chair, I like to move to table it until Mr. Evans return. He had a very keen interest in this case.

SECRETARY KEMP: I think that would be wise. We got a motion to table? Do we have a second?

MR. WEBB: Second. Any other discussion? Hearing none, all in favor of tabling

for a moment, signify by saying aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: We will table that. You want to give us some insight on the Greene County (unclear) decision?

MR. BRUMBAUGH: The Greene County case was a case we did have a live hearing on in October of 2010. Mr. Clark who I believe is here represented both the respondents, Dorothy Green and Marian Rhodes. Mr. Clark kindly consented to a continuance of the agency review until today. The initial decision in the case found no violation as to Mr. Rhodes or Mrs. Green. Both Mr. Rhodes and Ms. Green were alleged to have violated 2-12-566(2) which says that you use violence or threaten violence to prevent a poll worker from doing his duties or you materially interrupt with the poll worker's duties. It is a complex code section which can be interpreted in different ways and an interpretation of the code section was part of the initial decision. But Judge Miller from OSA interpreted this code section to say that we could either prove a violation by using or threatening violence in a manner that would prevent a reasonable poll officer or actually prevent a poll officer from the execution of his or her duties. That was one way or the second way was the second half of that phrase which was materially interrupts or improperly and materially interferes with the execution of a poll officer's duties. Judge Miller found that under either of these two prongs of 5662 we had not met our burden. The evidence regarding Mr. Rhodes was that Mr. Rhodes approached the Greene County registration office, Mike Malone election supervisor was standing outside and they had a very heated discussion. Although he testified he was intimidated by Mr. Rhodes, he also affirmatively testified that Mr. Rhodes behavior did not prevent him from doing his duty. However, we had additional testimony from some poll workers who were inside the office who could see what was going on and could hear loud, angry voices and could see angry gestures. They testified they were distracted from their duty for about five to ten minutes. That they were so concerned that they considered calling the sheriff. So that was the evidence. And Judge Miller felt that that evidence did not amount to a material interruption or a material interference with the execution of a poll officer's duties. So the decision today as Mr. Rhodes is whether again we accept this initial decision and the case ends. Or we write a final decision which makes reference to these parts of the transcript, I've summarized them in your memo. And we take the position that this is a material interference or material interruption. Again, we will then potentially be going through an appeal of that final order. As to Ms. Wright appeared at the Greene County registrar's office the following Monday after the interaction with Mr. Rhodes on Friday. Mr. Wright was wearing an Obama pin. She refused to take it off. Again, there was some perhaps unpleasant conversation between Ms. Wright and Mr. Malone. Ms. Wright ended up leaving and that was sort of the end of this story against Ms. Wright. There

really isn't, my recommendation regarding Ms. Wright would be that you accept the consent order that there is to violation. There is no threatening of violence and there is no real interrupting of duties. They had a conversation, and she walks out. I would recommend we accept consent order as to Ms. Wright and that you all consider how you want to define and what your standards should be in terms of material interruption and material interference and whether Mr. Rhodes' behavior risen to that level.

SECRETARY KEMP: Any questions for Ms. Brumbaugh? Anyone else wishing to speak on this matter?

MR. CLARK: Attorney John Clark. I represent both respondents in this case. I certainly would ask the Board to accept the recommendation on Ms. Wright and also that Mr. Rhodes' case be resolved here today. I do not think that, I think the judge was correct in the judge's analysis on this case. This was a well tried case and with respect to Ms. Brumbaugh, I think all of the facts were flushed out. I think the judge had an opportunity to observe the parties in this matter. I think the judge was correct in her decision. I certainly think on Mr. Rhodes' case, so we are asking this Board to at least confirm the ruling of the judge on Mr. Rhodes case and accept recommendation on Ms. Wright.

SECRETARY KEMP: Thank you, Mr. Clark. Any questions for Mr. Clark. Anyone else wish to speak?

SECRETARY KEMP: Hearing none, I am ready for a motion and discussion. Seems petty clear to me that on the decision on Ms. Wright the process worked like it was supposed to. She was asked to take the pen off, she left and did that. That's how I feel about it. I don't know what kind of thoughts you have.

MR. WEBB: I concur. In the past I have asked that the case against Ms. Wright be dropped. Not necessarily the greatest behavior, but I don't think there is any violation of any statute. With regard to Mr. Rhodes, I am disturbed by his behavior. But, unfortunately, I don't think code section the way code is currently written that he violated the code. I think it's unfortunate because I think at some point he should be penalized for his behavior. Any time you go into a precinct and engage in an argumentative nature that has been presented to us there should be some repercussion for that. Unfortunately, the statute as I read it requires some violence. I don't think it approached that. If it was any touching it was probably light or even just threatened. I think there as was a lot of yelling. I think there was some disturbance. But it is unfortunate. I don't think the way the code section is written today I don't think Mr. Rhodes behavior rose to the level of a violation.

SECRETARY KEMP: Any other discussion?

MR. BRUMBAUGH: They are two separate initial decisions.

MR. WEBB: With regard to Ms. Wright, I would make a motion to accept the initial decision and close the case.

SECRETARY KEMP: Motion by Mr. Webb to accept the initial decision on Ms. Wright's case. We have a second? I will second. Any other discussion?

MR. MCIVER: Yes, I intend to vote against this

motion. I Ms. Wright demonstrated phenomenally bad judgment. Her intent was interrupt the registration process. I strongly favor rejecting the judge's decision here. And a reprimand in addition to anything else we have done to be consistent which could be a monetary fine. Mr. Evans might be able to help us with that. He is the keeper of the records.

MR. WEBB: This is under which code section?

MR. BRUMBAUGH: It's 5662.

MR. WEBB: Both of them? Mr. Rhodes and Ms. Wright.

MR. BRUMBAUGH: Yes.

MR. WEBB: 5662?

MR. MCIVER: While he is looking, were both of these cases tried at the same time?

MR. BRUMBAUGH: Yes.

MR. MCIVER: That's my position. It would be my intention to vote against this motion.

SECRETARY KEMP: Any other discussion? We have a motion and a second. All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

MR. MCIVER: Aye.

SECRETARY KEMP: Motion carries 2 to 1. Now to Mr. Rhodes.

MR. MCIVER: I am going to move that we reject the initial decision by the judge in Mr. Rhodes' case. That what was original proposed by the consent order. Wasn't there some initial decision in which Mr. Rhodes participated?

MR. BRUMBAUGH: No.

MR. MCIVER: Then I have it confused with another case. My motion is that we

reject the initial decision of the judge and that Mr. Rhodes be publically reprimanded for this matter and a monetary fine, in addition to a cease and desist, and a monetary fine consistent with whatever Mr. Evans record would reflect for those we have found to be disruptive with the election process.

SECRETARY KEMP: Let the record show that Mr. Evans is back. Would you like to address Mr. Evans on the amount of the fine?

MR. MCIVER: We are on Greene County and this is Mr. Rhodes where we have an initial decision by the administrative law judge not crediting our position to punish him for his behavior where he was engaged in a polling place with Mr. Malone in Greene County. I proposed a motion that we reject the initial decision. That our order be a cease and desist with a public reprimand and a monetary fine consistent with what you reflect in your records, Mr. Evans

MR. EVANS: Was this the one with \$5000?

(UNCLEAR): This case went to a hearing, and there was the initial decisions were no violation. We never really gotten to any sort of settlement in this case before.

MR. MCIVER: Again in my view this was irreprehensible conduct. Far beyond the (unclear) of anybody that felt strongly about a particular issue. It was done in all the wrong ways, violated the code. I think that's what our order shall reflect and that is my motion.

SECRETARY KEMP: Did you want to state the dollar amount?

MR. MCIVER: I asked Mr. Evans who has been the keeper of the flame.

SECRETARY KEMP: I think his question to you was for disrupting a polling location was there a consistent --

MR. EVANS: About 5.

SECRETARY KEMP: 500 or 5000?

MR. EVANS: If you intentionally disrupt a polling place it was 5,000. If you were intimidating, etc., it was 5,000. If it was just that you were in there and obstructive which is different than interfering it was 500. Those were kind of the boundaries and then a sliding scale between the two. But as I remember from reading this, didn't the administrative law judge conclude that this was an episode that lasted only a few minutes.

MR. BRUMBAUGH: The testimony was that it lasted on five to ten minutes. Mr. Malone, the election supervisor who had the direct interaction with Mr. Rhodes, testified that his duties were not interrupted. The question is, the testimony was that there was other poll officers who because of the interaction between Mr. Malone and Mr. Rhodes for five to ten minutes they were not doing their work because they were

watching what was happening. They were concerned about what they were seeing, and they thought that perhaps they should call the sherriff. And the law judge looked at the statute and said the statute requires a material interruption or material interference and she found there was no material interruption or interference so my --

MR. EVANS: Don't we have to now as a procedural matter, the ALJ, made it findings of fact and conclusions of law and preponderance of evidence, we have to either accept or reject the ALJ. If we decide to reject don't we ourselves have to conduct an evidentiary hearing?

MR. BRUMBAUGH: No. You don't have to conduct and evidentiary hearing. Go off the record that was made at OSA. But you do have a write a findings of fact and conclusions of law that support your position.

MR. EVANS: To me the options are, as I understand it, one option is what you described which you can take the transcript and reach different conclusions. Unfortunately, the court of appeals has not been very good to us when we do that because they find that the administrative law judge had a chance to see the demeanor of the witness, all of the invisible characteristics that went on, we didn't. We are looking at a record cold. A second option is we reject the findings of fact and we do our own evidentiary hearing. Which is literally we haul everybody, we allocate and we did this once. We haul everybody in, we have our own trial ourselves and we reach our own conclusions. Third option is we accept the findings of fact but reach different sanctions or conclusions based on the findings of fact. But these findings of fact are so weak that we couldn't do much with it could we?

MR. BRUMBAUGH: We could write our own findings of fact based on the same transcript, the same record. So we would reject the judges finding of fact. But we would go back to the transcript. I do believe that I have to be honest, I have been doing this for five and half years, I never had Board want to do a new hearing. I think that probably you have to power to do it. Whether you can pretend like the OSA hearing didn't happen is probably --

MR. EVANS: We can't. I think that has to be one of the exhibits.

MR. BRUMBAUGH: You can say you would like to take more testimony.

MR. EVANS: As I understand it, Mr. Chair, the way we done it before is to say, the only time we ever done it is when we regarded the matter as so serious that it merit that kind of time and investment. You really are sitting there as judges, objections and direct and cross.

MR. BRUMBAUGH: The only thing to keep in mind IS the code mandates hearings, state election board evidenry hearings have to be conducted in the county in which it happened. So we would go to GreenE County to do this.

MR. EVANS: Yes. The one time we did this that is what we did. We went to the county. We did it that time actually to make a point. It was more to say this is a big

deal. We just have to make an assessment here. Clearly, what is your what was your candid assessment of it. Did the judge just get it wrong here. Based on the evidence you had reached the same conclusion or what (unclear) lawyer in the room we are getting it second hand. What was your assessment? If you said, I think they got it right that would mitigate in one favor. If you came back and said, I don't know what courtroom the judge was in. It was not in the courtroom I was in, then that would suggest something else.

MR. BRUMBAUGH: When we walked out the courtroom I thought I had won the case against Mr. Rhodes. When I read the transcript I see where the judge -the passion and the tension and the emotion that was running through that courtroom is not present. And so I am concerned that if we go on my memory of how stressful it was and another judge looks at the record, they will say what's the big deal. I have to be honest with you it was a very thorough hearing. The transcript is 200 and some page. It was several hours. To the extend that we say we want more testimony on this issue, and it's already been covered either the testimony is going to consistent or it's not going to be consistent, and we have credibility issues. I am not sure if it accomplishes anything in terms of an appeal. Best case scenario we get conflicting evidence. And now we have credibility issues as to why there is conflicting evidence. My recommendation would be to stick to the record and the transcript. I agree that what happened was totally inappropriate and beyond any bounds of what is acceptable. Especially when Mr. Rhodes is a county commissioner. I want you all to make a decision. At the end of the day it's really a legal decision. What's material and what's not. I think the board gets a lot of deference in interpreting the statutes that way. But, certainly, if we were to find that he did materially interrupt and interfere that day then perhaps a final order with penalties on the lower side of the range would be more helpful going forward.

MR. EVANS: I just worry that (unclear) unless have another supplemental evidence it is just going to be deadly to appeal.

SECRETARY KEMP: We have a motion if you want to restate it.

MR. MCIVER: It's an complete motion. It is it is reject the initial decision. To enter an order that includes a cease and desist. A public reprimand and based on the discussion I have heard I would say monetary find of \$1,000. That is my motion.

SECRETARY KEMP: We have a motion, do we have a second? I will second. Any other discussion?

MR. MCIVER: Let me lead. I don't have to remind everybody we took an oath to sit in these seats. That was to abide by this law to it do color blind and blind in every other way. That is to deal with violations to the code, and to ensure integrity of the code. What we do should send messages to the rest of Georgia that this kind of conduct will be dealt with very, very heavily by this court. That's what I see my personal charge to be and the basis of my motion. I think in all due respect to Judge Miller, she just frankly got it wrong. We all know as lawyers in this room judges get

it wrong from time to time and that is what appeals are all about. This matter may be appealed. Our charge is to ensure the integrity of the code and that the rest of Georgia understands the penalties for this kind of conduct. This was deliberate. It was intended. He sought out these people in a period of time. He is in a status of an elected public official which makes it more impactful in my judgment. That is the basis of my motion.

SECRETARY KEMP: Any or discussion on the Board?

MR. WEBB: I would just agree with Mr. McIver on our duties which we are charged to perform. However, I think the way this statute is written especially when you add the comments that Mr. Malone's testimony established unequivocally that the respondent did not interfere with his performance of his duties. That's in the judge's decision with the administrative law judge's decision, as well as Mr. Malone appeared before us and that question was asked. Did Mr. Rhodes interfere with you performing your duties. And Mr. Malone said no he did not.

SECRETARY KEMP: Any other discussion?

MR. EVANS: I just because I think this will be appealed, let me just say I will vote for the motion but the basis of my voting for the motion is that the court applied the wrong legal standard. That the court in interpreting 21-2-556 adopted the unduly restrictive interpretation of the statute which would permit the obstruction and intimidation of polling officers. And that is clearly not what the legislature intended and as a result in number six in page six of seven when the court said it adopted the second interpretation of the statute that is an error of law which is a (unclear) review by the board of elections and being a (unclear) review we adopt a different interpretation of the statutes and one that reflects a violation and one that supports the sanctions that Mr. McIver has outlined.

SECRETARY KEMP: Mr. Clark, would you like to address us on any of these issues.

MR. CLARK: I like to address to Board. I think this was certainly a well-trying case. Certainly, we have two lawyers there on the Board. We understand that all hearings can be very contentious especially dealing with the issue of voting. I think the judge clearly stated and Mr. Malone admitted that he was not intimidating. That is one critical issue -- I am not looking at the transcript -- but the individuals who on the inside, the question is were their job interfered with to the extent that they could not perform their duties. I do not think there was any testimony that I recall that they prevented from allowing an individual to vote or to register. So there was no credible evidence of there was material interference. I think the record is clear on that. I certainly do not think this Board need to take that action that it's taken that it will force an appeal to keep this case going on and on. I think the judge got it right when we look at the facts. Was Mr. Malone intimidating. Out of his own admission the commissioner did not know (unclear) we eliminate that piece of allegation. He didn't go on the inside, that is number one. They were on the outside. So there was

no interference with his duty. Then the second thing he admitted he was not intimidated. There is intimidation there. There is interference there and the individual on the inside decided they wanted to come out. They had not been requested to come out. They came out on their own volition. So even if you were to assume that their job was interfered with or materially interfered with, they were not called to come out to handle any type situation. We think the judge got this absolutely right. The judge is the finder certain of the fact, the judge heard the case. We have a transcript there. We certainly do not think taxpayer dollars need to be utilized in appealing this case. We certainly, we think this case was well tried in all respects to opposing counsel -- one thing I learned about in trying cases I never assume anything. I have absolutely no feeling as to whether or not I have won the case or the other side. After 33 years of practicing, law you just don't know. That is the situation. But I certainly would hope that this board be not takes action that is inconsistent with what the judge has done. It forces us to appeal to deal with the interpretation. I understand the interpretation situation. But even if we take the interpretation, the interpretation has to be supported by some material fact. What do the facts say? The facts said he admitted he was not intimidated. So if you take the interpretation and put it with the fact, does the fact support the foundation of the law?

SECRETARY KEMP: Thank you, Mr. Clark. Any questions for Mr. Clark? Any or discussion by the Board?

MR. BRUMBAUGH: If I could make a couple more comments. I just read the testimony two days ago. I believe the testimony says, I believe the testimony says Mr. Malone testified he was intimidated but that it did not interfere with his duties. What I have to prove is whether the duties were interrupted, interfered or stopped. So, additionally, as to voters, there was questions about well were voters able to come in? Were voters stopped from voting? There is no affirmative evidence that voters were prevented from coming in. No voters came in while they were having this argument in the front door. There was no testimony of people trying to come in and not being able to. There was testimony that and the testimony was that there was no information that voters were prevented from voting. That was page 126 of the transcript. Just to clarify and give you as many facts as possible when you make your decision.

MR. EVANS: All I am suggesting and the reasoning and concurring opinion that I am giving with Mr. McIver is that the interpretation that the court rejected, the statute interpretation the court rejected is the one that I think should have been applied. Which is the use or threatening of violence itself against a poll worker is violation. It need not interfere so that any interpretation of the statute is sustained even by the facts of the administrative law judge. Because the record clearly supports, I think that there was intimidation. There seems to be a question in the administrative law judge's mind as to whether or not that interfered with the poll worker. And they in order to rationalize that ended up adopting a statute

interpretation that puts a conjunctive and in the statute which has to be both. It has to be intimidation and it has to interfere. And my position is that if you intimidate, if you threaten physical violence against a poll worker that is wrong. Our statutes don't permit it, and you are entitled exact a civil penalty of thousand dollars from you. So when a reviewing court looks at this, they can see rationale independent of our rejection of the findings of fact that were made by ALJ.

SECRETARY KEMP: I think we have had plenty of discussion on this. I think everybody understands the testimony we have heard. We have got a motion and a second. If there is no further discussion by the board, I will call a vote. All in favor of the motion signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, like sign.

MR. WEBB: Aye.

SECRETARY KEMP: Motion carries, 3 to 1.

We need to take a quick break to let our court reporter have a little quick break. We will do that right now.

(Whereupon, a break was taken)

SECRETARY KEMP: We are going to take Chattooga County off the table. We will take it off and take it up.

MR. MCIVER: Move that we take up the Chattooga County case and reverse our earlier motion to take --

MR. WEBB: Second.

SECRETARY KEMP: We got a motion to second to bring Chattooga County case back up. All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. Ann.

MS. BRUMBAUGH: We are here in the same posture as the Greene County case in that we got an initial decision which found no violation, and, in fact, dismissed the case against Mr. Palmour. So the question before this Board is do we accept, again,

the initial decision which would close the case not only as to Mr. Palmour but as to the entire Chattooga County election fraud case? Do we issue a findings of fact and conclusions of law contrary to the judge's decision which may then end up, well, we can expect it will end being appealed by Mr. Palmour and his attorney. As I briefly summarized we have three different documents here. We have my motion which is based on one theory which is Mr. Palmour was party to crime of unlawful possession and delivery of documents. We have a response motion by Mr. Palmour which is premised upon several attacks on the constitutionality 21-2-574. We have an initial decision from Judge Oakley which pretty much ignores both motions and simply says because Mr. Palmour did not possess the documents that we have not proved our case and dismisses the case.

SECRETARY KEMP: From what Ms. Brumbaugh said earlier, we can accept the decision, we can reject it and write a final order or we can send it back.

MS. BRUMBAUGH: Although I don't recommend sending it back because the case was done on a motion for summary determination based on the criminal trial transcript and consent order, there is not going to be any other facts to bring out.

MR. EVANS: The critical fact that we have to put in our record is the evidence of possession of the ballots. What is our answer to that?

MS. BRUMBAUGH: Our answer is he was a party to the crime of possessing the ballots.

MR. EVANS: He was a conspirator and as a result possession is imputed to him?

MS. BRUMBAUGH: It goes a little bit beyond simple conspiracy. But he was aiding, abetting, advising, counseling.

MR. EVANS: So that the possession by others is imputed to him?

MS. BRUMBAUGH: Yes.

MR. EVANS: Just want to make sure I understand the (unclear) issue.

MR. WEBB: Ms. Brumbaugh, can you tell me how it's imputed to him?

MS. BRUMBAUGH: The code sections I went off of is Title 16. That is where the party to a crime statute is found. It is Title 16 Chapter 220, Subsection (b) 3 and 4. Someone party to a crime if they intentionally aid or abet in the commission of a crime. Or they intentionally advise, encourage, hire, counsel or procure another to commit the crime.

MR. EVANS: The key point for us if I recall correctly is that he admitted to knowingly providing the postage meter to enable Judge Vines to mail the absentee ballots. I felt pretty comfortable with this one.

MR. WEBB: Is there any precedence for using Title 16 under Title 21?

MS. BRUMBAUGH: No. (unclear) who has 15 years of criminal trial experience presented it that way. I talked to a criminal prosecutor in my office about it, he concurred. I did my own research, and I found case law which wasn't applicable to this situation but was sort of factually analogous. So I felt comfortable I making certainly a sufficient and responsible argument. Title 16 it just says party to a crime. It says crime. It doesn't say crime and Title 16, it just says crime. And 574 and 385 are both crimes.

MR. WEBB: Has Title 16 been applied to other titles?

MS. BRUMBAUGH: I don't know the answer to that. I didn't go that far. I don't know (unclear) it's been applied in two other election cases that's ended up in litigation.

MR. WEBB: I am not referring to just election cases, I am referring to any cases, any other statute outside of Title 16. Has the party to the crime statute been applied?

MS. BRUMBAUGH: I can't answer that right now. I didn't find anything. I think if I found something I would have -- I researched party to a crime pretty extensively. I also didn't find anything that said you couldn't do it. It just hasn't really come up.

SECRETARY KEMP: Any other discussions? Anyone else wishing to speak on this case? Hearing none I'm ready for a motion.

MR. EVANS: I move we reject the ALJ decision.

(UNCLEAR): I'll Second.

SECRETARY KEMP: Got a motion to reject and a second. Any other discussion?

MR. EVANS: My discussion is I do not believe that the ALJ's decision is supported by the record or by the statutory law or the cases that have been cited.

SECRETARY KEMP: Any other discussion? Hearing none, we have a motion and second. All in favor signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, like sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. We have another motion on our orders?

MR. EVANS: I would move that we enter an order based on the record including the transcript from the criminal trial of a cease and desist, a reprimand and \$18,000.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion and a second. Any other discussion?

MR. WEBB: Ms. Brumbaugh, maybe Mr. Evans is this because of the -- you find he was in possession, he was aiding and abetting, party to a crime and unlawful possession?

MR. EVANS: I believe that the criminal trial transcript and of all the documents support a finding of 18 different violations. We could have entered a maximum of 5,000 per violation. However, given the record, I am recommending 1,000 per ballot.

SECRETARY KEMP: Any other discussion?

(NO RESPONSE):

SECRETARY KEMP: A motion and a second. All in favor say, aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, like sign.

(NO RESPONSE):

SECRETARY KEMP: The motion carries. On to the Further Direction Needed category. 2008-000064, Chatham County. Give us a quick run down, Ms. Brumbaugh.

MS. BRUMBAUGH: This is a case in which some nomination petitions were circulated and they contained forgeries. This case was extensively investigated. It is undisputed that forgeries occurred. The problem is the relative code sections require specific intent knowingly, willfully. And because the petition circulators were not required to check ID, when someone signed the petition, they had to take their word for it. If I signed as Ann Hicks instead of Ann Brumbaugh they didn't check my ID. They just took my word for it. There is not enough evidence to go after the petition circulators for permitting forgeries to occur. And within the course of the investigation which was done by the Secretary of State's AG Office, no one would talk. No one would say, yes, I did know that when Ann Brumbaugh signed she signed as Ann Hicks. We don't know who the people are who actually committed the forgeries either. This case came before the State Election Board in December of '09. At that time Shaw (unclear) raised this issue. The board voted to send it to my office and also to send it to the DA of Chatham County. The DA of Chatham County had a conflict. He sent it to the prosecuting attorney's counsel, Rick Malone, and we can get Mr. Malone on the phone if anyone wants to talk to him. Mr. Malone looked at the case and found the same problem that Inspector (unclear) had identified which is, we don't know who to charge. He had written a letter back on January 14th, saying that he would not be prosecuting this case based on the identity issues.

We still have more technical violations. Apparently, when the notary notarized these petitions they had already been signed. So we can go out after the circulators and the notary for not following procedures and not signing the affidavits in front of the notary. I have spoken to Mr. Malone myself about this case. Like I said he wanted to be here. He couldn't be here. We can call him if we need to. He is more than willing to re-open this case at some point if we get some evidence of identity. If somebody decides to talk then he's more than willing to look. Additionally the Secretary of State's Office did a very thorough investigation with the powers they had. The GBI is not willing to do any investigation on this case. That is in Mr. Malone's letter. The DA of Chatham County is not willing to do any investigation and is not willing to use his, I guess, grand jury powers. So I wanted to bring this to your attention so you knew what was going in the case. And, again, administratively I can still go forward on the issues of the notary and the affidavits. Again, if someone ever decides to talk. If we get the evidence we need, I can certainly go forward at that point. But it is very difficult to go forward on the main issue regarding who did the forgeries or who is responsible for allowing the forgeries to happen with the evidence we have before us now.

SECRETARY KEMP: I know we have a couple of commissioners with us. I apologize for the length of this meeting. I appreciate y'all sticking it out with us. If you would like to say anything, we would love to hear from you.

MR. GALILEE: David M. Galilee, Commissioner, Sixth District, Chatham County. My address is 718 Windsor Road, Savannah, Georgia 31419. Commissioner Stone and I don't have the experience that you do attending these meetings. When we first came to the meeting, we thought we are were supposed to sign the blue cards and we did. We clearly put the case number on the blue card and initially we felt like we were getting the bum's rush with two minutes. But that's certainly not the case and we appreciate that. This case is something that is very troubling to me. If you remember in my introduction, I pointed out being a county commissioner for ten years and been a police officer for 40 years, 30 years in the rank of chief of police. Retired after 20 years as chief of police for the City of Savannah. I would consider myself pretty close to being an expert when it comes to criminal investigation. I have written articles on it. I have written policies and procedures on it. I know what you can do and what you cannot do. I personally think that what has occurred here in Georgia is that this thing has been passed around to too many desks. To begin with, when it was determined that there was a problem with these signatures, it went to the local board of elections. They determined it was a problem. It went to the Secretary of State's Office. This is the third time since August of 2008 that Commissioner Stone and I have been here. During this procession it was pointed out it went to our district attorney. Our district attorney's conflict of interest, specifically, was the same guy that carried the petitions and that was responsible for the forgeries also worked on our district attorney's campaign. And it's important to point out that the person that signed these did it for \$3 a pop. That is what he did for his living. He helped people on their campaigns. He put signs up and things of this nature. That is exactly what he did. The petition with affidavits on them, notarized affidavits, supposedly to meet your specifications were signed and issued. I think it

was 110, 119, petitions all of them notarized. All of them -- I don't want to use an improper term -- but John McMasters was apparently the team leader for it. He passed out the petitions, and he picked them up and took them to the board of elections and got a receipt for them in his name. Ms. Morris signed the affidavit. On his particular one -- where the bulk of the forgeries were -- it was notarized. Commissioner Stone and I spent a Sunday afternoon, and we went to 28 different peoples's homes to ask them if they had signed these petitions. We had copies of the petitions. We still have every single one, and 100 percent, said, no, we did not sign that. This included a major in the Chatham County Sheriff's office. Included prominent attorneys, prominent citizens in the community. They were outraged then and still outraged and want to know exactly what is going to occur. I have a problem, a serious problem when I hear that this case is too difficult to pursue. That is terrible. If every criminal investigator in Georgia had that attitude, we would solve our prison and jail overcrowding problem because there wouldn't be anyone in there. It's a relatively simple procedure. You have enough evidence right now. All you need is some good, solid criminal investigators. We were hoping when it was passed to our district attorney as you know Chatham County has a rather large staff and anywhere from 6 to 12 trained criminal investigators. And I talked to some of them and I talked to some of the prosecutors in Chatham County. They seem to think it's a slam dunk. They told me -- in their opinion, and I agree with them -- that a detective with one year experience and an assistant attorney with one experience can get a conviction on this. What is wrong? I am really, really disturbed about it. It's almost a laissez faire type of attitude on this. Mr. Secretary, I respect the fact that you ran on being tough on voter fraud. I want to see some of that toughness. This is a case that can be investigated, and can be solved and can be prosecuted. When you ask somebody a question on a criminal case and they say I don't want to talk to you. What do you say, oh my, and walk away? Apparently that is what you did. Something more needs to be done. I beg you to take another good, close look at this. And if you are not going to do anything, let it die so we can have access to your files under the Open Records Act because there is certainly another legal remedy beside what you are doing. Thank you.

SECRETARY KEMP: Thank you, Commissioner. Any questions? Ms. Stone or anybody else? Commissioner Stone?

MS. STONE: My Helen (unclear) Stone, and I live at 9974 Whitefield Avenue and that's spelled with an E. Savanna, Georgia 31406. I, too, find this very, very troubling. I will take my time and explain you why. I got constituents to answer to, and their names have been forged. I find it very, very troubling that this is the format that a person uses to get on a ballot. But this is the same format that you all are saying is not going to hold up in the case of law. Because you can't pen anybody down. This is a signed affidavit. I would like to ask Mr. Morris since he's got Major Wilcher's signature on here, where did he get it? He doesn't want to talk to y'all. I have constituents that that's not going to fly with. I am embarrassed that that's what the State of Georgia is telling me. It's wrong. It's plain wrong. I will give my summary of what I really think may have happened here. This is my opinion only. So I do not want this to be misconstrued as a fact. In 2004, our elections board had

not updated our maps with our voter registration list. When I found out enough signatures were obtained for this gentleman to get on the ballot, I requested a copy. Just to see where he got his signatures so I could maybe go and campaign in that area. I then found out that he got signatures outside of my district. Okay, he didn't have enough signatures. Now my guess would be this. If somebody who had no intention of walking door to door, picked up a voter registration list and sat around a table. I think that's what happened. Because if they had gone door to door they would have known they were not in the right district because they were getting paid for those signatures. I have to go back to Savanna tonight, and I have to give some folks some answers. The answer that I am going to give them, from Ms. Brumbaugh, is that we don't think this will hold up. We can't hold them down to this. Well, I would like for Ms. Ross who is not even listed on here -- and she carried a lot of these forgeries -- where did she get this signatures? Where did they get the one from the dead person that has been dead for over ten years? I can't get a signature from a dead person. I guess in the summary findings that was sent to me, supplemental report to this investigation, it says, on August 10th Investigator McNeil contacted David Osborne who was the candidate that wanted to get on the ballot. In this election an effort to obtain further information regarding this case, Osborne stated that either Jerry Steinbart or Jerry McMasters provided Osborne with contact information for several individuals who were able to assist Mr. Osborne with the campaign. He contacted them, all of them, and decided to hire Edwin Morris. This the gentleman that our DA has a conflict with. Osborn could not remember the names of the other individuals he contacted to possibly hire for campaign assistance. Osborne met with Morris and agreed to pay Morris \$3 per signature on the petition. Osborne provided Morris a district map and Morris indicated he would go door to door and obtain voter signatures. If he had the map, if he had the voter registration list and it was consistent with the map, they would not have gone outside the district. Other individuals Osborne utilized to circulate the petitions were Lanette Dalsantro, Leonard Childs, John McMasters, Jeffrey Raino, who is present here today, Jeremy Steinbart and Sandra (unclear) Steinbart was the only circulator from the list that was paid. All the others volunteered. This is what came from the state. All of these people worked together to get this gentleman on the ballot. This gentleman here I unseated in 2004, so rightly so he wanted to see somebody run against me. But the way they went about it was wrong. There is no doubt that these names on these petitions were not signed by the individuals that they say they are. I think that this state has an obligation to answer my constituent's cries for fairness and for their names not to be violated through forgery. I would be happy to answer any questions.

SECRETARY KEMP: Thank you, Commissioner Stone. Any questions? State your name and address for the record.

MR. RAINO: Jeff Raino. I live at 3 Stonegate Court, Pooler, Georgia 31322. Mr. Secretary and gentlemen of the Board, thank you. It has been a long day. I am tired as you are. I hope you bear with me in that I can state my case. I ran for election in 1996 in Chatham County, District 1. I walked the streets, I walked the parks. I walked all the houses about three times. I lost by 1500 votes. In 2000, I walked the same streets again in district 1 and knocked on doors four times, and won

by 150 votes. I served honorably for four years as county commissioner, and then I ran again in 2004 against Ms. Stone. I lost by 97 votes. It was a honest, fair campaign. All my campaigns are fair campaigns. I walked door to door. I worked very hard. I've even worked on other people's campaigns. Commissioner (unclear) walked door to door. He knows I walk door to door talking to people to have them see my way, through persuasion, talking to them. I wanted to help Mr. Osborn because he is a business associate. He is in the same plaza I am (unclear) just around the corner is his store. I have known Providence Christian school for which (unclear) is a headmaster for years. I had no reason to distrust this man. I wanted to help him. When I lived in (unclear) he was practically a neighbor. So it was logical for me to want to help him. Quite honestly, I have known the Stones since days in the (unclear) in the 80s. To be honest with you, I don't like her. I hurts myself as a Christian to say I can't forgive the woman. (unclear) oil and vinegar. I do my best to keep away from her. I don't talk to her. It's nothing against her. One time when my son was attacked by dogs and nearly killed, she sent me a very touching note which I thanked her for. Stating her concern about my son and how sorry she was that it happened. To this day I will always remember that. Still I don't like her. I just really don't like her. I don't make any attempts to hide that. Probably in the next election cycle, I will try to find somebody to run against her again. But when this thing happened, I left my business to help Mr. Osborn for a couple days, and I can't leave my store that often because it's hard. Economy is bad. I go to bed, I get back up at 4:00 in the morning. I stay until 6:00 at night. I get back up. When I leave here, I am driving home, I will be in bed by 10:00, 10:30. I will be up at 4:00 starting all over again. (unclear) all these other things happened. I am just as outraged by them. This Edward Morris sounds like somebody you should make an example of.

MR. EVANS: If you were us and you got a great (unclear). You know a lot of people. You clearly work the streets. You know a lot of folks. How do we find the name of the people who got workers? If you were in our role who would you start asking?

MR. RAINO: My only concern for me I was accuse of forgeries. That is why I am responding. I asked at the last board meeting. because it's my constitutional right to know if I am accused of something under the Georgia Constitution whose name did I forge? Mr. Worley was very concerned. He pulled my name out of a list of respondents, and he voted to move the other people to the Attorney General for further inquiry. I thought that we would have an opportunity to see. Give me a name you think I forged. But nobody came forward with a name.

MR. EVANS: Where would we look? You are clearly very good at not answering. I got a real simple question.

MR. RAINO: It seems to me you would bring in Edward Morris here by subpoena, and you ask him what is going on.

MR. EVANS: Are you aware of any names that were on there that are forged?

MR. RAINO: Only from what I found from discovery (unclear) from what they said at the meetings I have been to. (unclear) I was at a meeting with the board of elections at Chatham County when they brought forward the law enforcement officials whose name was forged. I think that's egregious.

MR. EVANS: Do you know which circulator got those forged names?

MR. RAINO: No. Personally I don't know. I keep hearing the name Edward Morris. As I said before, I would not know Edward Morris if he walked into the door.

MR. EVANS: So other than Edward Morris, is there anybody else that you can think of that you would bring in here to ask questions?

MR. RAINO: No.

MR. EVANS: Because you are on the record here you understand that your words are being taken down?

MR. RAINO: Yes.

MR. EVANS: Did you personally obtain any forged signatures on any of the petitions?

MR. RAINO: As I said at the last meeting and as God as my witness on judgment day I will be accountable for many things but for what is said here, I am not accountable for any of those things.

MR. EVANS: I am asking you a very narrow question. Did you --

MR. RAINO: No, sir, I did not

MR. EVANS: Do you know of anyone who obtained a forged signature?

MR. RAINO: No, sir, I do not.

MR. EVANS: You have no knowledge?

MR. RAINO: No, sir, I do not.

MR. EVANS: So you understand that if later somebody comes in and says he was in the meeting with us. He was at the table. What the implications of that are for you? Because you will now have made a false statement to a Board in session. So I want to give you one more chance on this. You can always assert your Fifth Amendment Right and say I don't want to say. But I want to be very unequivocal here.

MR. RAINO: Sir, I know no one who gave false signatures.

MR. EVANS: Do you know anyone who would know of anyone who obtained false signatures?

MR. RAINO: No, I can't state with any certainty, Sir.

MR. EVANS: Without certainty?

MR. RAINO: No, I don't want to go there. I don't know.

SECRETARY KEMP: Anything else, Mr. Raino?

MR. RAINO: No. I appreciate your time in this matter.

SECRETARY KEMP: Any other questions for any of these folks? Ms. Stone, can you enlighten us to someone we should talk to that we haven't?

MS. STONE: Mr. Secretary of State, there is a lady, Kim Ross, who was never enlisted to begin with. She carried a fair amount of these forgeries. I have got her contact number on (unclear) which I am sure you all have a record of all these petitions. I think I would be remiss if I did not add and just feel compelled to that if Mr. Raino felt so strongly, then why did he refuse to talk to the investigators? None of these people wanted to talk to anybody.

MR. EVANS: What we need to, both of you have come to us and said, do your job. And what we keep saying is great. We need information. You have got names and as a former detective, if you could find out -- there have been multiple times when this Board named people as respondents for no other reason than to get them to that podium and subject them to the questions that I just asked. We have on occasion offered immunity which is to say okay if you cooperate, we will give you immunity. Those are the options. But we can't do that if we don't have names. If you got names, you got to get them in here. That is the best thing I could tell you.

MS. STONE: (unclear) we wanted to do this as soon as we recognized the forgeries. I am real sorry that we didn't look for more. But the only names on the forged signatures out of the 28 that we got were Edward Morris and Kim Ross that I can prove solidly that by going door to door that those were the circulators of the petition. It is my understanding that the investigator found some additional forgeries, but I don't know which they were because I have not been privy to those records. So, therefore, I can't tell you who was the circulators. If I had those names I would dig through the 119 pages again and tell you who carried the pages. At this juncture out of the 28, the two circulators and one of the deceased people was on Kim Ross's or Edward Morris's. I have got it all written down. I would be happy to provide you with any information. I would be happy to talk to any investigator. I would be happy to look my constituents in the eye and say I have done everything I can do. Thank you.

SECRETARY KEMP: That is what we want to do

as well. Quickly, Commissioner.

MR. GALILEE: David M. Galilee. County Commissioner, Sixth District, Savanna, Georgia. A suggestion. If you had subpoena power --

SECRETARY KEMP: Which we don't.

MR. GALILEE: That is a real problem.

SECRETARY KEMP: This is a very frustrating job sometimes when we have DAs that won't take up the criminal part of this. I know you're frustrated with us about doing something but we are frustrated sometimes that we have to follow the laws and rules that we have to act within. I hope you understand that.

MR. GALILEE: I do understand that, Sir. I think it's going to be awful tough for you for the next four years to be tough on voter fraud without subpoena power. I really do. You say who should you talk to. If you had subpoena power you could bring Edward Morris in, and your investigators could talk to him and work a deal and find out if there was conspiracy and who the leader was and get the big guy. That is what you do in criminal investigations. But if you can't do that, you can't do that. What I am asking if there is nothing you can do, please don't wait for the statute of limitations to run out on this. If you can, declare this case dead so that we get under the Freedom of Information Act all your files. Because there is another legal remedy besides your office.

MR. EVANS: We can move to open the files now.

MR. GALILEE: That would be excellent.

MR. EVANS: My question is is there a reason why we would not make the files open?

MS. BRUMBAUGH: As a matter of policy, the Open Records Act excludes pending investigations.

MR. EVANS: I agree. So we have to affirmatively vote to do it?

MS. BRUMBAUGH: I don't know if there is any reason not to.

SECRETARY KEMP: Did you have anything else you wanted to add, Commissioner?

MR. GALILEE: That's it. I just didn't want this thing to die on the vine, and the statute of limitations disappear because there is one more excellent remedy. But we have got to have your files.

SECRETARY KEMP: Mr. Harvey or Mr. Brooks help me clarify our problem. If we know these petitions are out there and we know there is a dead person listed on

there or two and we have witnesses that the commissioners are counting for that did not sign the petition, what is our problem with figuring out who it was that did this?

MR. HARVEY: The problem Ms. Brumbaugh has pointed out is the person who circulated the petition, in some cases, won't talk to us. Refuse to give a statement. In other cases they said, I just got people's name of somebody and handed it to somebody, they signed their name. I didn't verify it. So it could have been a real name, it could have been a false name. Those are the two big problems. The case with the deceased person, I doubt the circulator would dispute that somebody signed it that was not the person listed. I think in every case that the circulator would talk to us they refused doing it themselves. And they refused having any knowledge that it was a forgery or they were in any way a part of it. With us having the burden of having to prove they did something, that is where the problem comes in.

MR. EVANS: We can name them as respondents.

SECRETARY KEMP: What happens if we go to a OSA hearing? Do they have to show up and testify under oath?

MR. HARVEY: We named everybody that circulated a petition with a forgery on it is named as a respondent.

MS. BRUMBAUGH: Kim Ross was interviewed by Ryan O'Neal.

MR. EVANS: Were they named as respondents?

MS. BRUMBAUGH: Yes.

MR. EVANS: Did we notice it for hearing?

MS. BRUMBAUGH: It came to this board on December 16th for probable cause and the board voted to refer it to the District Attorney's office and also to refer it to my office.

MR. EVANS: Don't you have subpoena power to compel witnesses?

MS. BRUMBAUGH: I have subpoena power going to OSA. I don't have anybody to name as -- I can't name them because the statute requires, again, knowing and willful violations.

MR. EVANS: So you're trial counsel. You can subpoena witness for a trial, right?

MS. BRUMBAUGH: Yes.

MR. EVANS: So you schedule the trial and lay a subpoena on them. And then you just cross examine them.

MS. BRUMBAUGH: Mr. Evans, quite frankly the DA could do the same thing.

But there are certain ethical duties we have. We can't simple haul someone into court knowing we have no evidence.

MR. EVANS: As a witness.

MS. BRUMBAUGH: But we don't have any -- that would more of a grand jury. I can't -- OSA is for contested case. That's the phrase, contested cases. So there always has to be a respondent.

MR. EVANS: There is a respondent. You have several.

MS. BRUMBAUGH: But we don't have the evidence.

MR. EVANS: All you have to do is schedule for trial.

MS. BRUMBAUGH: If we know we don't have evidence walking in, we can't go in as a fishing expedition at OSA.

MR. EVANS: I agree. No offense, but having lived through this back when Secretary Cox was the secretary, we went through this. And bottom line is you would be shocked at how many cases you will win, if you just make all the witnesses show up and have to testify under oath.

MS. BRUMBAUGH: I don't have anyone to name against them.

MR. EVANS: I'm suggesting that every respondent is a witness against every respondent. And you simple haul them in one by one. You pop a subpoena on them. If they want to show up, Ms. Evans have it here and deny any knowledge, that is fine. But you will be surprised because you have basically a complaint. That is what we proved. I will say you are now protected from abusive litigation under 9-1514. You are protected from Title 51 because we made a decision that there was probable cause to go forward. So you have a complaint that's filed. You go to the judge and say I want a trial date. You don't have to worry about anything else other than where the evidence takes you. And you lay a subpoena on these respondents. Then you go about cross-examining them. I don't think they will show up. I think you will have to move for contempt against them. But that will be a different topic. That will be a test of your subpoena power.

MS. BRUMBAUGH: When I did the Chattooga County, case I spent two weeks researching party to a crime to make sure I was on good legal footing. In the 12 years that I have been a prosecutor and an assistant attorney general, I have never walked into court unless I have felt that I have evidence to get past directed verdict. I consider that my ethical duty. If the Board wants to vote against my practice and training and quite frankly the practice and training of everyone I know at the Attorney General's office, the Board can do this. We will then take it up in my office. But I don't consider OSA a fishing expedition. We don't have evidence against anyone. I am happy to open this case again when we have evidence. But we don't want to get into a situation where we say, we don't have the facts but we will

send it to OSA anyway. That's not --

SECRETARY KEMP: Let me ask you this. How do we get the facts? How between your office and our investigators, what else can we do that we haven't done? Is there anything we can do to get facts where we could move forward?

MS. BRUMBAUGH: Well, you could prevail upon the GBI, perhaps. Perhaps coming from the Board as opposed to Rick Malone they would listen. There is -- outside of that --

SECRETARY KEMP: That is our options from a criminal standpoint. We have to get the DA to do something or the GBI?

MS. BRUMBAUGH: Right.

MR. EVANS: I will tell you and maybe it is just I am obviously more bold then the average (unclear) although I think Mr. McIver would rival me in terms of boldness. There has been more than one time I showed up in front of a jury having no clue in the world as to whether I was going to win or whether or not I even thought I had a case. I have been pleasantly surprised over the course of my three decades of trying jury cases and appearing in front of courts at how often people having to testify under oath will change the entire world. I hear you. And if you're saying to me Attorney General Sam Olens refuses to let you show up and drop subpoenas on witnesses to make them show up and testify under oath, that is fine. I would like to know that. It is something I would be very interested in knowing if that is his threshold.

MS. BRUMBAUGH: I have not had that conversation with him. Should the Board vote along those lines, I will have those conversation with him.

MR. EVANS: This is my last meeting, so I don't have to bear the burden of what happens next. I can't imagine walking away from an investigation were there are knowing forgeries for the life of me.

SECRETARY KEMP: I don't think anybody -- I know it's not my intention to walk away from this case. We know we have got dead people on the list. The question is how do we move forward in a productive way?

MR. EVANS: I would start by opening the file. Unless you tell me --

MS. BRUMBAUGH: Opening to them?

MR. EVANS: Yes.

MS. BRUMBAUGH: That is fine.

MR. EVANS: You have no objection?

MS. BRUMBAUGH: No, I have no objection.

MR. EVANS: I think that is a great start. We will let people on the ground in Savannah take the information we have and see if we can find who these people are.

SECRETARY KEMP: I remind the Board our next meeting will be in Savanna, so it will be easy for all those respondents to show up. Mr. McIver?

MR. MCIVER: I am in favor of a motion directly to the AG's Office telling them exactly what we want them to do. I recognize the AG has certain powers to accept and reject. But it's incumbent upon us to enforce the election code. As, unfortunately we've heard repeatedly from the two commissioners, we are not getting that done. So I am glad to propose such a motion. I really do think one is in order in this case.

MR. EVANS: Let me start. I move that we open all the files subject only to a carve out for attorney-client communications. So if it's a communication from the Attorney General to us or from us to the Attorney General that should be withheld as attorney-client privilege. But all fact investigation materials be made public.

SECRETARY KEMP: Okay. Mr. Evans moves. Do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any further discussion? Hearing none, all in favor of Mr. Evans' Motion, signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries.

MR. EVANS: I would let these folks have until the Savanna meeting to use that information to get us the names of witnesses and respondents so the board in Savannah can try to compel the attendance of whoever you can get to show up.

SECRETARY KEMP: Mr. McIver?

MR. MCIVER: Do we think it would be wise to do no more than this until the May 24th meeting?

SECRETARY KEMP: Ms. Brumbaugh, I would be interested in hearing your opinion on that.

MS. BRUMBAUGH: I think giving the people on the ground that know people in Savannah is a really good idea. The stronger the case, if a strong case can be made,

then I would be happy to take that to court. So I think that would be a very wise course of action.

SECRETARY KEMP: I am certainly willing to try that for the next meeting. And then if that doesn't get resolved we can always consider your thoughts and motion at our Savanna meeting if we are not making any head way.

MR. EVANS: If you wanted to be one level of aggressiveness more, you could put the current case back on the state election board agenda for the meeting in Savanna with a notice to all of the respondents that they have to show up. Then you would have the benefit of whatever witnesses they could have that you could also invite to that meeting. It's really a great coincidence that you'll going to be in Savannah, because you now have the built in advantage of whatever investigations these commissioners can find, combined with, it's on the agenda. So they have to show up. Combined with if they have witnesses that they can give you to say we need you to show up at the hearing.

MS. BRUMBAUGH: We notice all the respondents every time any case is on the agenda. So all the respondents were noticed for today. Mr. Raino was the only one that showed up. I believe in December of '09, Mr. Raino was the only one that showed up. But, yes, that is standard procedure.

MR. EVANS: I am saying in addition to the respondents, if there are witnesses that they can identify for you, I would send them a notice asking them to be at the Savanna meeting because it will never be more convenient to have people to show up than when it is in there town.

MS. BRUMBAUGH: We can certainly let them know, yes.

SECRETARY KEMP: Is there any kind of action that we need to take tonight to have that case back on our agenda?

MS. BRUMBAUGH: No. We can just put it on, and it will take care of itself.

MR. MCIVER: I would like for the record to reflect that absence something extraordinarily impactful by the May meeting, I am going to imposed a motion -- if passed by the SAB -- that the Attorney General advance this thing to an OSA hearing and subpoena all the appropriate parties, and let's just see where the cards fall. So I would like for Attorney General Olens to know that's coming.

SECRETARY KEMP: I think that gives Ms. Brumbaugh the opportunity to go ahead and discuss that situation with him. Anything further in this case? If not we will move on to the public hearing. We did have one more thing on further discussion on the update of public cases and completed cases. I don't want us to go into a list of those. But the Board has them if there is any comments.

MR. MCIVER: I have a comment. Ms. Brumbaugh it really goes to your office. There are lot of old cases sitting here. I am very troubled by that. Are you in a

position -- I know we are running late -- but perhaps even after this meeting to send us a report on the status is not very satisfactory. Why do we have cases from five, six and seven that are just not coming to us?

MS. BRUMBAUGH: Well, I appreciate your concern Mr. McIver. We are working on that in our office. And certainly I will communicate that you made this very specific comment to the people who are the two chiefs. I am simply an Indian. But I take it seriously, too. I will do as much as I can to have better updates of older cases at the May meeting and answers to your questions.

SECRETARY KEMP: Mr. McIver, I will let you know that I have also, from my position as Secretary of State, inquired about those cases which I will state for the record, I don't believe any of those are Ms. Brumbaugh's cases. They are from other attorneys previously working with the Board. But I had expressed the same concern, and I certainly will pass along any information I get as well as what Ann can get for us.

MR. MCIVER: Please. It is not a big deal, but I am on the transition committee as you know for Attorney General Olens. But as a board member I would not have any hesitation asking him to come here and report on these cases. That may not be necessary at that level, but you are an Indian and there are some chiefs there. But there are some very old cases here and these status reports just are not satisfying me that these case have any momentum.

MS. BRUMBAUGH: Mr. McIver, as a board member you should do what you think is important. If you need to contact Mr. Olens, about this, by all means. If you like me to contact Mr. Olens on your behalf, I am willing to do so. I am not trying to be an impediment, and I am not trying to minimize what you're saying. So I am happy to help you with this situation in whatever way you need me to help you.

MR. MCIVER: Thank you. I don't need your help. I will go to the Attorney General on my own and with your permission, Mr. Chair, I don't want to tread upon your territory, here --

SECRETARY KEMP: I already made my inquiry.

MR. MCIVER: I have that kind of relationship.

SECRETARY KEMP: Let us know what you find out. **MR. MCIVER:** Let the record reflect I will make the report on May 24th about the status of these cases.

SECRETARY KEMP: We are going to move into the public hearing on the rules posted for adoption. Do we need a motion to go into that?

UNCLEAR: So moved.

SECRETARY KEMP: We have a motion and a second. All in favor of moving

into the public hearing, signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: Motion carries. We are now going to have a public hearing on the rules posted for adoption. Ms. Hicks do you want to give us a brief rundown on this, and what we did at the last meeting? I think everybody is aware of this.

MR. EVANS: Yes, I think it's safe to say we have read the rules and that we are familiar with their content. And what we need to know is what are the public comments?

MS. HICKS: There were no public comments.

MR. EVANS: Excellent. Then I move we adopt Rule 183-112.02, 183-12.06, 183-14-.01, and 183-14.04, 183-1-14-.11.

MR. WEBB: Any chance I can ask you to hold the last one?

MR. EVANS: You want to hold which one?

MR. WEBB: The very last one.

MR. EVANS: I didn't do 183, the mailing and issuance ballots. Is that the one you are worried about?

MR. WEBB: Yes.

MR. EVANS: I did not include that one.

MR. WEBB: Okay. Then I am fine.

UNCLEAR: I second.

SECRETARY KEMP: Any other discussion on that? Anybody in the audience wish to speak on these rules on this particular Motion? Okay, hearing none, we got a motion and a second to approve the first four rules. All in favor signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE):

SECRETARY KEMP: That motion carries. Now we're talking about Rule 183-1-14.11. Mr. Webb.

MR. WEBB: Thank you. I apologize for not catching this earlier, but in reading and preparing for this meeting, I notice the time interval for giving out the absentee ballot applications were 72 hours with no qualifiers for making a business day or business hours or anything of that nature. Meaning that if an eligible applicant turned in a ballot application on a Thursday, the 72 hours would be up before the weekend is over. I don't think that was the intent. I think the 72 hours, I think what you would be really looking for is within three business days or something to that effect.

SECRETARY KEMP: Where specifically are you taking about?

MR. WEBB: The very last line.

MR. EVANS: The reason I didn't include it was I know that there is a move afoot in the legislature to change early voting. Would it be appropriate for us to hold this until we get the new law in the event there is a new law. Or do you think this rule should go forward? It really won't be effective?

MS. HICKS: No, sir, it won't be effective. I think it will be most appropriate to wait until we see the outcome of it.

MR. EVANS: Because another option would be if Mr. Webb move to amend to make this three business days. We would then re-notice it. By the time the re-notice was done, the rule would come up -- in other words they both dovetail. So I am almost wondering if it's a fortuitous motion to amend and then re-publish. Because then we would be (unclear). You do the rule, we get the three business, and we'd also know whatever is going to pass the legislature because we know that will happen by the middle of April.

MS. HICKS: Correct.

MR. WEBB: Motion to amend the rule to provide for three business days in lieu of 72 hours and that we re-notice.

MR. EVANS: Second.

SECRETARY KEMP: Got a motion and a second. I assume just from my novice ness here, the motion includes us re-posting and allowing for public comment again and the whole process? Anyone here in the audience wishing to speak to this exciting rule change? Hearing none, we got a motion and a second to approve Mr. Webb's motion. Any other discussion? Hearing none. All in favor signify by saying aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

SECRETARY KEMP: Aye. All opposed, same sign. (NO RESPONSE):

SECRETARY KEMP: The Motion carries. We have finally reached the end.

(HEARING ADJOURNED AT 7:59 p.m.)

